United Nations A/HRC/38/39/Add.1

General Assembly

Distr.: General
23 April 2018

Original: English

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons on her visit to El Salvador

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, on her visit to El Salvador.

El Salvador is experiencing an epidemic of generalized, gang-related violence, with homicide levels above most conflict-affected countries. As a consequence of this extremely unfortunate situation, there are extremely high levels of internal displacement. The Special Rapporteur considers that the challenge of internal displacement is a hidden and publicly unacknowledged crisis in El Salvador. Victims of violence and internal displacement commonly have to take their safety and protection measures into their own hands due to the lack of an effective State protection system for internally displaced persons. While the difficulties facing the Government are significant, fully acknowledging the challenges of internal displacement is an essential yet currently missing step in effectively confronting the crisis and providing the necessary protection and durable solutions for internally displaced persons.

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Report of the Special Rapporteur on the human rights of internally displaced persons on her visit to El Salvador*

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* Circulated in the language of submission and in Spanish only.

I. Introduction

1. The Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, visited El Salvador at the invitation of the Government between 14 and 18 August 2017. She held consultations with senior government representatives, United Nations bodies and agencies, national and international civil society and non-governmental organizations (NGOs) and those experiencing internal displacement. The Special Rapporteur would like to thank the Government of El Salvador for its excellent cooperation and all those government representatives whom she met and who provided valuable information to her both during and after the visit. As described in A/HRC/38/39/Add.4, some recent efforts by the Government to try to tackle the lack of information on the internal displacement situation must be acknowledged. Specifically, the Special Rapporteur welcomes the launch of the profiling study on internal mobility due to violence in El Salvador[1], led by the Ministry of Justice and Public Security. The study, carried out through a nationally-representative statistical methodology, identified that 1% of the sample had been internally displaced due to violence between 2006 and 2016. These results can be extrapolated to the total population in the country, indicating that at least 71,500 people were displaced in El Salvador in that timeframe.

2. The Special Rapporteur met officials, including the Minister of Foreign Affairs, the Deputy Minister of Justice and Public Security and ministry officials (the director of the national civil police, the director of the victims and witnesses programme, and General Directorate of Migration and Foreign Affairs) and the Minister of Governance and Territorial Development. She met with representatives of the Public Defenders' Office, members of the Legislative Assembly and Supreme Court of Justice, magistrates of the Constitutional Chamber, and representatives of the National Council on Citizen Security and Coexistence, the Human Rights Ombudsman's Office, the National Council for Children and Adolescents, and the Institute for Comprehensive Child and Adolescent Development. She also met with municipal mayors and other municipal officials and she visited the Migrant Reception Centre at La Chacra. She consulted ambassadors and other members of the diplomatic community.

3. The Special Rapporteur also met the United Nations country team, and would like to thank its Resident Coordinator and the rest of the team, as well as representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the United Nations Development Programme, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and others who provided outstanding support and information relating to issues of internal displacement. She also thanks the Office of the United Nations High Commissioner for Human Rights for its valuable support in the preparation and conduct of her visit. She visited victims of internal displacement and their representatives and thanks in particular community members, activists, and representatives of civil society organizations who met with her and provided essential information.

4. The Special Rapporteur's visit focused on displacement caused by generalized violence, particularly by organized criminal gangs. She emphasizes that this cause of internal displacement falls clearly within the scope of the 1998 Guiding Principles on Internal Displacement, which establish that internal displacement can be caused by factors including conflict, natural disasters, development projects and, most significantly in the context of the visit to El Salvador, as a result of generalized violence. While many associate internal displacement most readily with conflict and disaster, it is important to recognize that Governments have an obligation to prevent and respond to displacement caused by generalized violence and to protect the human rights of those internally displaced by it to the best of their ability and resources.

[1] The profiling study is available on the following website: http://www.seguridad.gob.sv/caracterizacion-de-la-movilidad-interna-a-causa-de-la-violencia-en-el-salvador/.

II. The context of violence-induced internal displacement

5. While gangs have existed in El Salvador since the end of the civil war in 1992, reports suggest that gang membership has increased dramatically since the early 2000s as Salvadoran gang members were deported in significant numbers from the United States of America and continued criminal activities in El Salvador. The police and military are reportedly significantly outnumbered by gang members. Unverified estimates of gang membership put the number of gang members at over 60,000 (out of a total population of 6.5 million people), while many more may be associated in some form with gangs. This compares with roughly 25,000 police officers and some 13,000 armed forces personnel deployed to combat gang-related crime. The gangs reportedly maintain a presence in some 247 out of the 262 municipalities, which implies that their influence extends throughout the country. The Mara Salvatrucha, or MS-13, is the largest gang with some two thirds of total gang members; its main rival is the 18th Street (Barrio 18) gang. The control of territory and influence over communities is fundamental to gang operations and ethos, and gangs frequently violently dispute the control of territories.

6. Salvadoran gangs, known as *maras*, carry out numerous criminal activities, including robbery, drug dealing, gun sales, prostitution, murder and human trafficking. They are not generally involved in the international trafficking of drugs. Evidence indicates that much of their criminal income is derived through extortion, often small scale and localized in nature and affecting even the smallest business, such as local bus operators, while even the largest businesses may also pay the gangs. Demands are made to business operators often with the threat of "pay or die". Gang-related violence is estimated to cost El Salvador some $4 billion a year, according to a study[2] by the country's Central Reserve Bank, with up to 70 per cent of businesses facing extortion. Nevertheless, other than some gang leaders, most gang members are young people from poor communities; their criminal activity usually nets them only a small income, which keeps them in relative poverty.

7. The Special Rapporteur was frequently informed about the legacy of extreme violence stemming from the brutal civil war between 1980 and 1992, in which some 75,000 people were killed. The Spanish term for internally displaced persons, *desplazados*, continues to have strong civil war connotations, which the Government and others see as highly undesirable today. Some government officials highlighted that the present violence and internal displacement should be recognized as entirely different from the era of the civil war in which there was State-sponsored violence, disappearances, internal displacement and other human rights violations. There is consequently a reluctance to acknowledge the phenomenon or even use the term "internal displacement" due to such associations.

8. To bring the recent levels of violence into focus, in 2015 the murder rate reached 103 per 100,000 inhabitants, making El Salvador the most violent country in the world. There were 907 homicides during the month of August 2015 alone, the highest number since the end of the civil war. While the homicide rate reduced significantly in 2016 (to 81.7 per 100,000), according to national civil police data, 3,375 violent deaths were registered between January and 7 November 2017. On average, 11 people were murdered every day. In just one week between 21 and 28 September 2017, 196 people were killed, including 3 police officers and 2 military personnel, equating to an average of 28 murders per day. Official statistics suggest that around two thirds of homicides in 2015 were committed by gang members.[3]

9. Despite some reductions in the overall rates since the peak in 2015, judged by any standard, this homicide rate and the associated crime, threats, intimidation and environment of fear constitute an epidemic of generalized, gang-related violence, with levels equivalent to or above most conflict-affected countries. A symptom of such an epidemic of violence and homicide is witnessed in what many describe as crisis levels of internal displacement. Nevertheless, this is a situation that remains officially unrecognized by the Government.

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[2] See www.bcr.gob.sv/bcrsite/uploaded/content/category/1745118187.pdf.

[3] D. Cantor, "As deadly as armed conflict? Gang violence and forced displacement in the Northern Triangle of Central America", *Agenda Internacional*, vol. 23, No. 34 (2016), pp. 77–97.

10. The Special Rapporteur met with numerous representatives of indigenous peoples, who described their concerns related to internal displacement. They described a long history of displacement and threats to their existence on their ancestral lands. While they are also affected by the widespread crime and violence in the country, some also noted their concerns, which included problems relating to land rights and titles and their struggle to maintain ownership and access to ancestral lands, as well as large-scale development projects, such as dams, mining activities and infrastructure development implemented by the Government and large corporations. Some noted that members of their communities had been killed trying to protect their rights as indigenous peoples. The Special Rapporteur emphasized that such allegations required investigation and the rights of indigenous peoples should be respected, including the right not to be displaced from their lands, according to standards such as the United Nations Declaration on the Rights of Indigenous Peoples and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization.

III. Displacement figures and patterns

11. The phenomenon of internal displacement is characterized by numerous and dispersed displacement of individuals and families from different localities due to localized acts of violence, threats or intimidation, rather than mass displacement as may be witnessed during internal conflicts, for example. Consequently, the actual number of those affected by internal displacement is hidden as victims seek anonymity and, for some, routes out of the country to find safety elsewhere. Tracking the numbers and internal displacement trends is therefore extremely difficult and statistical quality data is vital to reveal the full extent of the problem, including not only the numbers of those affected, but their circumstances, locations, vulnerabilities and protection issues. This is essential to begin to find effective solutions for many hidden and anonymous victims.

12. There is a striking disparity between government figures on those internally displaced by violence and those of civil society and international organizations and clarity is urgently required. While some international organizations have put numbers displaced by violence in the tens or even hundreds of thousands[4] (while recognizing the need for caution due to the challenges in gathering accurate data), the Government, through the Ministry of Justice and Public Security, informed the Special Rapporteur that the numbers of internally displaced persons were only in the hundreds and that the problem had been massively overstated. Government sources frequently downplayed the extent of the problem, in marked contrast to credible evidence and information provided by civil society and some national officials, including the Public Defenders' Office and the Ombudsman.

13. The Special Rapporteur welcomes the profiling study on internal displacement conducted by the Government in cooperation with UNHCR, the Joint Internally Displaced Persons Profiling Service and others, which was due to be finalized soon after her visit. The main objective was to obtain reliable information about the magnitude and trends of internal displacement due to violence and organized crime. This has the potential to be an essential resource, providing a necessary evidence base for all stakeholders and helping the Government to plan, design and implement adequate institutional responses to offer protection, assistance and durable solutions to internally displaced persons. It is vital that the findings of the report are transparent and that it should be made public as soon as possible.

14. Nevertheless, key national bodies, including the Supreme Court, the Public Defenders' Office and the Ombudsman's Office, all expressed concerns about the extent of

[4] The Internal Displacement Monitoring Centre states that, in 2016, there were 220,000 new displacements due to violence, while in 2015, the NGO International Rescue Committee estimated that the number of displaced individuals was approximately 324,000, or 5.2 per cent of the country's population.

internal displacement. Records maintained by civil society organizations[5] relating to those that they record or assist show that the number of internally displaced persons or those at risk of displacement who requested protection increased to 699 in 2016, in addition to the 623 victims that were assisted in 2014 and 2015. Several cases of collective displacements were registered in 2016, with at least eight reports of such cases (the most well reported involved more than 50 families in the municipality of Caluco). The Special Rapporteur emphasizes that the cases and figures recorded by civil society and bodies such as the Ombudsman's Office reflect only the tip of the iceberg of internal displacement, which mostly remains a hidden phenomenon.

15. Civil society sources suggested that the number of cases of internal displacement reported to the authorities, including the police and the public prosecutor's office, is extremely low in comparison with the number of actual cases. One interviewee stated that "displaced people try to solve their situations on their own here". Many keep a deliberately low profile and are located with host families or friends or in rented accommodation and are therefore difficult to locate and reach with information or assistance. In view of the nature of their displacement due to threats or violence, many are thought to seek to hide their locations and blend into urban centres in which they can be anonymous and invisible to the gangs who threaten them and the authorities. This makes gaining access to them by the authorities or humanitarian organizations extremely difficult.

16. The 2016 report on forced displacement by the organizations that compose the Civil Society Round Table against Forced Displacement by Generalized Violence and Organized Crime in El Salvador shows that forced displacement affects men and women to a similar degree. Among men and boys, the group most affected by forced displacement are those in the 18–25 age range, followed by those in the 0–11 age range. Among women and girls, those most affected are girls between the ages of 0 and 11 years, followed by women between the ages of 18 and 55.[6] A similar situation of vulnerability affects the lesbian, gay, bisexual, transgender and queer population, which represents an additional vulnerability factor, either by direct attacks motivated by discrimination or hatred and/or where it is an additional risk factor for the violence suffered by the victims.

17. Civil society groups emphasized the problem of neglect and abandonment of internally displaced persons and a lack of recognition of the problem in public policy documents. The extent of the problem and the lack of protection or assistance for internally displaced persons has led some to identify the situation as a humanitarian and protection crisis reminiscent of some conflict situations in terms of the numbers of people affected and the nature and extent of the challenges. These challenges include vulnerability to violence or death, poor access to health care, exclusion from education and lack of livelihoods or income, leading to poverty or extreme poverty. The Special Rapporteur met with community activists, NGO representatives and internally displaced persons in a number of locations. The perceived threat to them was such that meetings were held in undisclosed locations and under conditions of tight security.

IV. Impact of violence on individuals, families and communities

18. The Special Rapporteur was informed of the devastating and extraordinary impact of generalized and, in particular, gang-related violence on individuals, families and communities. Gangs control or dominate some, predominantly poor, territories and populations through threats, intimidation and violence and a culture of violence that infects whole communities and peoples' everyday activities, movements, interactions and relationships. Killings are commonplace and extortion of individuals and small businesses is widespread and seen as a "tax" on local communities by the gangs. Many of those

[5] See www.wola.org/wp-content/uploads/2016/09/Informe-testimonial-sobre-desplazamiento-forzado-1.pdf.

[6] See https://static1.squarespace.com/static/5784803ebe6594ad5e34ea63/t/5880c66b2994ca6b1b94bb77/1484834488111/Desplazamiento+interno+por+violencia+-+Informe+2016.pdf.

affected by extortion live in gang-affected neighbourhoods and consider that they simply have no choice but to pay or to flee their homes and neighbourhoods. Under threat from the gangs, individuals or whole families would simply disappear, leaving their homes abandoned or selling them cheaply if they could.

19. The extent of violent crime is such that there is often no investigation carried out into even the most serious crimes, including homicides, resulting in a general lack of faith in law enforcement and the criminal justice system. The criminal conviction rate in El Salvador is less than 5 per cent.[7] Such a situation indicates a deeply worrying law enforcement deficit and demonstrates that the police and the investigation service are overwhelmed and underequipped to respond to the challenges they face, including the extraordinary levels of homicide. It also creates and perpetuates an environment and society in which gangs can flourish and function with almost absolute impunity from prosecution for even the most egregious crimes. This leads individuals and families, who see no prospect of remedy or protection in reporting violence to the authorities, to see their only option as fleeing their homes and communities to find safety.

20. Young people cannot lead normal lives in some gang-controlled neighbourhoods and it is virtually impossible to avoid exposure to gangs. Community members described being unable to let their children go out to play for fear that they would fall under the influence of gang members. Crossing from one gang-controlled neighbourhood to another could result in death for a young person if they move without care or permission. In other cases, the only way for them to stay safe is not to leave their homes at all. Simply living in a known gang neighbourhood could result in young people being suspected of being gang members or associated with them, and some described incidents of violence or intimidation by both the gangs and the police or military. One young woman stated: "It is a crime to be a young person in El Salvador today. It is dangerous to be young here." This depressing sentiment was echoed numerous times, including by senior public officials.

21. Violence and internal displacement have an enormous impact on children. In a kindergarten that the Special Rapporteur visited, she was shown the pictures made by young children who had responded to the question "what do you fear" by depicting men with guns and masks and families leaving their homes. When community members were asked what they wanted for the future, they described their hopes for a normal life with safe neighbourhoods, secure streets and the everyday interactions and activities that they were currently deprived of — a life without the threat of gang violence or an oppressive police and military presence. While community members said that they felt that not enough was being done to tackle the violence and establish the rule of law, they also noted that they feared the police and armed forces when they came into their communities.

22. Internal displacement has a considerable impact on access to education. Schools in some localities are no longer considered safe spaces for children, teachers are threatened, gangs operate within and around some school facilities where they recruit children, expose them to gang-related criminal activities, and identify girls as sexual targets for gang members. The Special Rapporteur was informed that children could be stopped on their way to school by gang members and could be beaten or even killed for refusing to join or assist a gang. Very high dropout rates from schools are partially attributed to violence and the displacement of families.

23. Data from the Ministry of Education showed that approximately 3,000 students (majority girls) had dropped out of public schools in 2015 explicitly because of gang threats. Separate data from the Ministry demonstrated that 15,511 students dropped out of all levels of public and private schools in 2015 because of crime and another 32,637 students left because they changed residence. NGOs suggested that changes in residence were often the result of forced displacement.[8] Those that have documented cases and support internally displaced persons highlighted that, over a period of 18 months to mid-

[7] Between 2013 and 2016, of the 662 complaints filed by the public prosecutor's office, only 5 per cent resulted in a conviction.

[8] See www.state.gov/documents/organization/265798.pdf.

2015, not one displaced child was in school.[9] Some families are in hiding or confined to safe houses, restricting their access to education to what can be provided by support organizations. Lack of documentation is another barrier to access to education for displaced children. Children seeking to register at new schools require a certificate from the previous school, which may be difficult or dangerous to obtain.

24. Victims describe a daily life in which they negotiate with, and acquiesce to, criminal groups over basic aspects of their lives, such as freedom of movement, and whether and where to attend school and work, access medical care and seek justice. They also balance their safety and security against coercion by succumbing to blackmail, collaborating in criminal activity, submitting to sexual abuse and forced relationships and joining the ranks of criminal organizations themselves. Resistance can trigger threats and violence. Victims of violence and displacement faced stigmatization and discrimination based on their perceived association with criminal organizations. Public officials regularly associated them with "the enemy" rather than recognizing them as citizens with a right to protection.

25. The Special Rapporteur was informed by the Ombudsman of one case that had taken place during her visit, in which a family that had been the subject of extortion had found a hand grenade placed at their front door with a note informing them that they had 48 hours to leave their home or be killed. The case came to the attention of the Ombudsman's Office since the family made the decision to flee, could not return home and there were no State-provided shelter options for their protection. A temporary solution was to house the family in a hotel, while the Ombudsman expressed concern and frustration that no options for protection and relocation were available to them to support such families.

26. The lack of secure shelter options for internally displaced persons and families leaves them living in highly precarious and vulnerable conditions, and under continuing risk of violence. Some may have to relocate multiple times before finding permanent shelter and may have limited or no access to services, such as education for their children or health-care provision. The possibilities for abuse, particularly of single women or women with children who lack financial resources or familial ties, are considerable and include the risk of trafficking in persons. In addition, the impact of internal displacement on host families, often themselves living in conditions of economic and social hardship or poverty, must be taken into account.

27. Street gangs pose a constant threat to young women and girls, who are particularly vulnerable to threats, intimidation and violence, including rape. Sexual violence by gangs is commonplace, and high levels of femicide have been recorded. The general risk to girls from the gangs leads many families to leave. For those who remain and become voluntarily or through coercion associated with gang activities, this can result in violence or prison for some. Women whom the Special Rapporteur met, some in secret safe houses, described their experiences of threats and violence by gang members, leading them to flee their homes. One displaced woman who refused to help a gang commit a kidnapping was raped and forced to flee. Another said that her gang-member boyfriend and the father of her child had grown increasingly violent and that she had to leave to protect herself and her son.

28. In 2016 alone, 524 women were killed, according to the Institute of Forensic Medicine.[10] While not all deaths are attributable to gang violence and the incidence of domestic violence and killings are high, a significant percentage are gang related. The number of femicides noticeably decreased during the period of a gang truce negotiated with the Government from 2012 to 2013. After the truce broke down, during 2015 and 2016 the numbers almost doubled, with 573 and 524 cases, respectively. The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, visited El Salvador in August 2016, and stated that gangs were responsible for forced disappearances, forced

[9] S. Reynolds, *It's a Suicide Act to Leave or Stay: Internal Displacement in El Salvador* (Washington, D.C., Refugees International, 2015).

[10] See www.univision.com/noticias/america-latina/300-feminicidios-al-ano-no-son-nada-en-el-pais-mas-violento-del-continente.

recruitment of children and for the subjugation of women, including forcing young women and girls to become gang members' sexual partners.[11]

29. Members of the lesbian, gay, bisexual, transgender and intersex community, particularly transgender women, are highly vulnerable to violence and hate crimes. In a report published by the Ombudsman's Office, it was claimed that 53 per cent of the transgender women interviewed had reported having received death threats or being subjected to violence throughout their lives, while 46 per cent had claimed to have suffered attacks on their lives or physical integrity. Under such a threat of violence, many members of the community have been displaced internally, often on several occasions. The Special Rapporteur met transgender women who described threats, assassination attempts and intimidation by gangs, as well as by members of the police and military, and discrimination and abuse by all authorities. In one municipality, social media disseminated a message from a gang stating that every transgender person would be killed, leaving 14 people having to seek safety in San Salvador or abroad.

30. While some bodies, including the Counsel General's Office, have reportedly shown greater openness to lesbian, gay, bisexual, transgender and intersex issues and concerns and a willingness to act, to date no specific protection mechanisms exist. Representatives noted that many in the lesbian, gay, bisexual, transgender and intersex community lack the resources to live in safer neighbourhoods and have no choice but to live in poorer gang-affected localities. Transgender people sometimes seek relative safety by living together and establishing coping strategies. While no verified data exists, one community member stated that they had documented "between 600 and 700 homicide cases" against members of the lesbian, gay, bisexual, transgender and intersex community with over 500 transgender women killed. According to them, no cases have gone to court, no one has been prosecuted and few cases have been investigated. One case that was brought to court related to a gay man who was killed while visiting from the United States.

V. Legal, policy and institutional responses to internal displacement

31. At the time of the visit, there was no legal or policy framework in place for internally displaced persons and no registration system to record and monitor cases. The Ministry of Justice and Public Security stated that the numbers affected by internal displacement due to violence had been low and that their displacement was commonly temporary and quickly resolved, normally through return to their homes. The Special Rapporteur was informed that all victims were provided with assistance and protection under Government policies, including the Safe El Salvador Plan, which were having a positive impact on criminal activity. However, this position was in marked contrast to the views of the majority of other public officials, including senior judges and the Ombudsman, who acknowledged and described the extent of internal displacement and expressed their concern and frustration about the situation and the position of the Government.

32. Legal reforms in the context of extraordinary security measures were made in 2016 and included the classification of gangs as terrorist organizations. The reforms established new crimes aimed at gangs, including "coercing or threatening students or teachers in or around schools" and "resisting authority". The Government also focused on addressing the illegal restriction on freedom of movement of people and illegal occupation of property. The National Assembly reformed article 152 (B) of the Criminal Code to include the crime of "illegal limitation to freedom of movement", which penalized any person who, by violence, intimidation or threat to persons or property, prevented another from freely circulating, entering, remaining or leaving any place in the territory of the republic. While useful in the context of internal displacement, civil society representatives noted that it did not adequately encompass the crimes and the impact of internal displacement on victims or provide adequate protection for those displaced, while they also highlighted limitations to its implementation.

[11] A/HRC/33/46/Add.1.

33. The legislation relating to illegal limitation to freedom of movement requires the filing of a report to certify that the crime was committed in order to involve a State institution (national police, for instance) that can provide a response. In the current context of violence, civil society representatives state that most people do not file reports due to concerns about their safety because of the weak protection mechanisms provided by the State. Equally, while providing a limited legal protection framework that is relevant to aspects of the experience of internally displaced persons, it does not establish forced internal displacement as a specific crime resulting in a particular category of victims in need of protection, restitution of rights or durable solutions.

34. In 2006, the Supreme Court of Justice passed a Special Law for the Protection of Victims and Witnesses. While a positive step, it was noted that the Law focused on witnesses of crime and witness protection and did not include internally displaced persons as a unique category of victims requiring support, assistance and protection. The Law provides for measures to protect the identity and location of victims or witnesses; temporary or permanent protection through the provision of police escorts, temporary housing, or change of domicile or employment; and support measures to provide health care, psychological support and legal services, and help with housing, food, maintenance and employment. Urgent measures can be applied immediately and temporarily according to the risk, before a permanent solution is found.

35. In a landmark development between June and November 2017, the Constitutional Chamber of the Supreme Court adopted decisions that aimed to protect internally displaced persons — the first cases of internal displacement recognized by the constitutional courts. It issued four injunctions, including some ordering protective measures for families that had fallen victim to forced internal displacement due to threats, beatings, harassment and rape by gangs. These decisions use the standard of the Inter-American Commission on Human Rights, which states that the lack of an effective investigation of violent acts may favour or perpetuate forced displacement, thereby constituting a de facto restriction on the right of freedom of movement and residence. The victims claim violations of the rights to security, free movement, and jurisdictional and non-jurisdictional protection. Violations of some economic, social, and cultural rights were also included as effects of displacement.

36. These decisions emphasize the relevance of family protection in these cases, based on the criteria developed by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Specifically, the Supreme Court ordered the national civilian police and the Counsel General's Office to take action, including by adopting the appropriate measures to ensure family integrity and security considering the threats against them; prosecuting those responsible in connection with all crimes related to the cases; and ensuring the victims' safe return to their homes. The Commission also granted precautionary measures in favour of one of the cases. The Commission and the Special Rapporteur issued a press statement welcoming the decisions[12] and urged the Government to recognize and adopt measures to prevent displacement and to protect the human rights of those who had been forced to leave their homes.

37. The Ombudsman has been a vocal advocate for greater attention to internal displacement in El Salvador and produced specific reports on the situation. Within its limited capacity and resources, the Ombudsman's Office provides legal assistance and psychosocial support to victims of forced displacement or those at risk of displacement, with support from UNHCR and civil society groups. Many cases are referred directly to civil society organizations with greater capacity to provide essential assistance, such as safe houses. In 2017, the Ombudsman's Office released its forced displacement registration report for 2016, in which it called for the Government to officially recognize the problem of internal displacement and to improve existing measurement and registration mechanisms among other measures.[13]

[12] See www.ohchr.org/EN/Issues/IDPersons/Pages/IDPersonsIndex.aspx.

[13] See https://www.wola.org/wp-content/uploads/2016/09/Informe-oficina-ombudsman-desplazamiento-forzado-en-El-Salvador-1.pdf.

38. The Government must be commended for taking important initiatives to address the significant challenges of violence. Most importantly, the Safe El Salvador Plan was frequently discussed by government officials and constitutes the most important element of government policy relating to preventing, addressing and reducing gang violence. The Plan was formulated under the auspices of the National Council on Citizen Security and Coexistence, established in 2014 and composed of institutions of the State, political parties, representatives of civil society and the international community, among others.[14] The inclusive process leading to the Safe El Salvador Plan constituted a positive practice in seeking to establish a comprehensive policy.

39. Launched in July 2015, the Safe El Salvador Plan focuses on the most violent and gang-affected municipalities and has several objectives, including the prevention of violence, prosecution of perpetrators, protection of victims of violence, rehabilitation and social insertion, as well as the strengthening of institutions. Significantly, it includes specific reference to internally displaced persons as being among those to be protected and assisted. Within this Plan, concrete priorities were established for the development of a legal and institutional framework for the protection of victims, the promotion of public policies on this subject and the development of a system of identification and registration of victims of violence underpinning all these efforts. The US$ 2 billion, five-year plan places a strong emphasis on prevention through initiatives, including employment projects, parks, sports facilities, education and training programmes for the country's 50 most violent municipalities. It also aims to curb the influence of criminal gangs in prisons, improve prison conditions and opportunities for rehabilitation, and ensure that victims of crime are supported and can obtain justice and reparation.

40. In the framework of the Plan, the Ministry of Justice and Public Security opened 11 local assistance offices for victims, with the goal of opening more during 2017. Located in prioritized municipalities, they demonstrate important progress by the Government in giving attention to victims of violence and offer professional assistance for victims of crimes, such as sexual abuse, trafficking in persons, violence against women and domestic violence. Services include legal, psychosocial and social assistance. UNHCR supported the programme by equipping facilities and providing technical assistance for the creation of a referral pathway for the identification, attention to and protection of victims.

41. While in practice they might play an important role, regrettably, the offices have no specific mandate or capacity to address internally displaced persons, which hampers their ability to provide services or proactively take measures to locate and support them. The Special Rapporteur was concerned that, despite such valuable initiatives, in practice there were insufficient protection mechanisms or protocols in place, including under the Safe El Salvador Plan, specifically focused on internally displaced persons. In addition, communities are greatly concerned by such elements as extraordinary security measures conducted in their communities, including joint police and military operations. One person whom the Special Rapporteur met said, "people are afraid of the Plan coming to their communities. People leave because of the police operations. Police perceive everyone to be a potential gang member."

42. The resources available to implement some elements of the Plan remain, in practice, constrained and the greatest proportion of funds (73.8 per cent) is allocated to the prevention of violence. This is despite positive government initiatives, including the introduction of a 5 per cent tax on individual telephone charges to help pay for the implementation of the Plan. Less than 5 per cent of funds available under the Plan are allocated to protecting victims and, in practice, almost none are likely to be available for internally displaced persons due to the lack of official recognition of them and their plight. Civil society representatives emphasized that victims should be the highest priority,

[14] The main objectives of the Council are to provide inputs to enrich policy and national plans for justice, citizen security and coexistence; facilitate dialogue with and across different sectors of society; propose action for the implementation of policies and follow-up on their execution; present periodic reports; and contribute to the identification of funding mechanisms.

including the identification of those displaced by violence or threats and that greater resources should be allocated to finding solutions for them.

43. Currently, ministries and other national institutions are restricted in their activities relating to internally displaced persons by factors that include the lack of institutional and political acknowledgement of internal displacement. Recognition and increasing the budgets and capacity of key institutions to respond must be part of wider solutions to the problem of internal displacement. For example, the Special Rapporteur met with the child and adolescent protection structures and institutions of the State — the National Council for Children and Adolescents and the Institute for Comprehensive Child and Adolescent Development — which were conducting essential programmes for those from such vulnerable groups. They do not specifically address the issues and protection needs of internally displaced children and adolescents. While they can adapt their services to address such cases to some extent, their role in the future could be greatly enhanced if their resources and capacity are improved and their mandate expanded.

44. A system of protection exists for women, run by the Institute for the Advancement of Women, has a small number of shelters available for women. However, these are geared towards domestic and other forms of abuse, rather than to assisting victims of internal displacement, who often fall through the protection net. Also, the Institute for Comprehensive Child and Adolescent Development operates several shelters. Such shelters operate according to strict age and gender criteria, and are usually unavailable to shelter displaced families. For example, some women's shelters do not accept children, while child and adolescent shelters cater to individual children and young persons and do not accept families, creating challenges in maintaining family unity.

45. Many officials and civil society representatives who acknowledged the crisis of internal displacement argued for the establishment of a legal, policy and institutional framework to specifically address the needs and vulnerabilities of internally displaced persons, as a distinct category of victims. The protection system as it currently exists should be improved to include a network of safe shelters for women, young people and adolescents, as well as men, assessed to be at risk of violence. Family unity is essential for internally displaced persons and the Special Rapporteur was alarmed to learn that there were few options for the protection of families together. She met one displaced woman who was told that she could not be provided with shelter together with her children and who risked separation from them until she was provided with a secure shelter solution by an NGO that allowed the family to stay together.

46. Some relevant national institutions with responsibility for the protection of victims, including women and youth, could be playing an active and important role in support of internally displaced persons, including the provision of such services as shelter, legal assistance, health care and psychosocial care and access to documentation. However, they currently take a reactive rather than a proactive approach to the identification of victims of forced displacement and base their figures and responses on the few cases that are brought to their attention. This leads to an underestimation of the actual number of cases and victims, which constitutes only a small percentage of the actual number forced to become internally displaced persons.

47. Despite the considerable challenges, solutions to internal displacement inside El Salvador must be sought. In order to provide viable protection options inside the country, for example, identifying safe locations for relocation should be undertaken across different municipalities, notably in those regions or municipalities with low rates of gang presence, to provide options while respecting the preferences of internally displaced persons. Nevertheless, all such solutions should be viable and should include not only housing and security but also appropriate livelihood options and service provision, including health care and education.

48. The Special Rapporteur was deeply impressed by civil society organizations and their dedicated staff who perform numerous functions in support of the victims of violence and for internally displaced persons in the absence of dedicated government assistance to them. They are filling a huge protection gap and many victims informed the Special Rapporteur that they found themselves entirely reliant on their support. The services that

they provide include secure shelters for internally displaced persons, including families who have no Government-provided shelter options. As mentioned above, a group of civil society organizations have formed a round table on forced displacement to coordinate their responses with those who seek their help. Government agencies and institutions and the Ombudsman's Office frequently rely on the members for help with the provision of essential shelter, for example.

VI. Impact of security responses on human rights and displacement

49. The influence of violence must be fully acknowledged and the need for an anti-gang policy, crime prevention and security measures is clear. However, periods in which an "iron fist" policy have been implemented have demonstrated that violence was exacerbated as gangs responded in-kind by increasing their levels of violence, armed response and homicide. Despite this, in early 2015, battalions of special-forces military personnel with authority to arrest and detain — and what many consider to be excessive powers, including the use of lethal force — were deployed in major cities and gang neighbourhoods to help police to combat the country's gang violence under a new policy of "extraordinary security measures". State policies that prioritize strong security measures over redress for victims were frequently stated as a cause for concern by civil society.

50. Community members told the Special Rapporteur that they feared aggressive and intimidating security strategies that appeared to criminalize entire neighbourhoods and consider ordinary community members as potential gang members or affiliates often based simply on where they lived. Steps to develop and implement genuine community policing initiatives are needed and should be enhanced through close and consistent community engagement. The Special Rapporteur was informed by numerous people that they had suffered violence and abuse by members of the national civil police. She heard allegations of extrajudicial killings and the re-emergence of extermination groups connected to the police and security forces. She notes that this has been strongly denied by senior government and security officials whom she met.

51. Several individuals whom the Special Rapporteur interviewed stated that they feared the authorities as much as the gangs. It is evident that the intensified security responses to violence are themselves a cause of internal displacement in some cases. Efforts are being made to confront and prevent abuses by such authorities, including internal investigation into allegations of police abuse. Measures to address and reduce the criminal structures and influence of the gangs must be sensitively implemented in consultation with the communities affected by violence. Allegations of police murder, brutality, corruption and connections to the gangs must be taken extremely seriously and investigated fully. Trust in the police is essential, but has deteriorated and must be rebuilt.

52. In December 2015, the Ombudsman's Office announced that between June 2014 and May 2015 it had received 2,202 complaints of human rights violations. Of these, 92 per cent were against the national civil police, the army and other State institutions responsible for combating crime. Those against the police alone represented 63 per cent of all complaints, while the army accounted for 11 per cent. The majority of complaints pertained to mistreatment, intimidation, and arbitrary searches and arrests.[15] However, other cases related to killings that might constitute summary or arbitrary executions.

53. While much of the violence is inter-gang or perpetrated against local community members, attacks by the gangs on the police and military have reportedly increased.[16] By May 2015 there had been some 250 attacks on security forces personnel reported in that year alone. The security forces are operating in high-risk environments in what some describe as "low-intensity warfare". The Special Rapporteur acknowledged the difficult tasks facing police officers and soldiers and regretted that they and their families had also

[15] See www.insightcrime.org/news/brief/reported-abuses-by-el-salvador-security-forces-up-official.

[16] See Reynolds, *It's a Suicide Act to Leave or Stay*.

been targeted by the gangs with many killed or displaced. The police may live in neighbourhoods affected by gang violence and hide their identity as police officers. Also, the high-risk environment may result in more repressive security operations. Even some judges have faced threats and transferred to safer locations so that they and their families could live in safety.

54. While the Government highlights the reduction in homicides due to its security policies, some civil society representatives and community members noted their perception that in fact there may have been a reduction in the reporting of violent crimes generally. They stated that this was due to an ongoing and increasing lack of trust in and fear of the security forces in the context of extraordinary security measures and allegations of abuse by them, which they suggested could make people less likely to report violence generally. They cited some high-profile incidents of alleged killings of both gang members and apparently innocent civilians by the police (i.e. San Blas).[17] One interviewee stated that "the police are like a new gang, harassing communities and keeping them under watch".

55. In late 2016, El Salvador, Guatemala and Honduras launched a task force, comprised of police, military, intelligence, migration and customs officials, with the objective of creating a regional security capability and institutional cooperation across the three countries to address the activities of criminal gangs. While this demonstrates valuable regional consensus and joint action on the challenges of gang violence, there remains a lack of a consistent political approach and recognition of the issues relating to internal displacement. Currently, Honduras has been the only Northern Triangle country to fully acknowledge the situation and begin a process to establish legal, policy and institutional frameworks.[18] Further joint regional initiatives would help to confront gang violence and internal displacement through regional cooperation, exchanges of positive practices and solidarity to address the challenges.

VII. Internal displacement as a staging post in migration

56. It was frequently emphasized that El Salvador had particular challenges in providing protection from violence due to its small size and the extent of influence and networks of gangs. Several senior officials acknowledged that, owing to the lack of protection options for many of those at the greatest risk of violence, the only viable choice remained to seek relocation and protection outside the country. Many displaced by violence end up joining irregular migrant routes. They frequently find themselves detained, deported and returned to El Salvador, where they may return to a situation of risk, internal displacement, continuing threats and diminished resources. For young persons, young women and members of the lesbian, gay, bisexual, transgender and intersex community in particular, this creates a downward spiral of vulnerability as resources dwindle and their vulnerability increases.

57. The figures and trends for those from El Salvador seeking asylum abroad are troubling. According to UNHCR,[19] there were 17,196 new asylum applications submitted by Salvadorans in North and Central American countries between January and June 2016, a 76 per cent increase in comparison with the same period in 2015. Also, in 2016 there were 52,400 Salvadorans returned from Mexico and the United States. Some 16 per cent of adults and 32 per cent of children reported leaving the country due to insecurity and violence. Due to concerns about protection, many deportees may not return to their communities of origin and either continue their participation in irregular migration routes or

[17] The *San Blas* case refers to a case in which eight people were killed during a police operation in March 2015, resulting in a court case and subsequent ruling that the police had acted illegally with regard to the killing of some individuals. See www.wola.org/analysis/amid-rising-violence-el-salvador-fails-address-reports-extrajudicial-killings.

[18] See the report of the former Special Rapporteur on the human rights of internally displaced persons on his visit to Honduras conducted in 2015 (A/HRC/32/35/Add.4).

[19] See http://reporting.unhcr.org/sites/default/files/UNHCR%20El%20Salvador%20Factsheet%20-%20March%202017.pdf.

become internally displaced in El Salvador. UNHCR, with NGO partners, is implementing projects to identify those with protection needs and provide essential assistance and protection to internally displaced persons in the context of a protection working group established in 2016, which it leads.

58. The Special Rapporteur visited the Migrant Reception Centre at La Chacra, which receives some 52,000 returnees to El Salvador annually. The Centre provides excellent services for those returning, many of whom are vulnerable, including unaccompanied minors, with dignity and care and provides essential short-term support. Many of those returnees are not able to return to their original homes and may therefore return to situations of internal displacement and possible threats of violence. The Special Rapporteur welcomed the important work of the Centre. She expressed her hope that the service and process may evolve to include a more comprehensive screening of protection concerns for individuals and families, as well as being able to refer those who may be internally displaced to a dedicated protection framework.

59. Currently, such a protection framework is absent and the Special Rapporteur urged the Government to take concrete steps to address this protection gap. Such steps might include, for example, the provision of secure temporary shelters, particularly for internally displaced women, girls and young persons at risk of violence. Currently, there are few such essential support facilities in place in the country. Where people feel that they are unable to return to their places of origin due to fear of violence or other factors, it is necessary for the Government to develop comprehensive and viable options for local integration or relocation and resettlement in other parts of the country as part of a strategy of support and durable solutions for internally displaced persons.

60. The label of "economic migrant" is often applied by receiving countries, which does not account for the unique circumstances of threat, fear and lack of options facing internally displaced persons or refugees. Also, the Government of El Salvador also accredits high rates of cross-border movement mostly to economic factors or a desire to be reunited with other family members, which undermines protection concerns and asylum claims. While it is acknowledged that many do turn to migrant routes for economic and other reasons, it must also be recognized that many are victims of violence and the culture of fear and have legitimate protection issues.

61. Civil society groups and media sources have documented a significant number of incidents across Northern Triangle countries, in which those who had been returned to their countries, including El Salvador, had been killed by gangs or returned to highly precarious situations. In view of the current situation of violence, the Special Rapporteur hopes that asylum seekers from El Salvador in all countries will be provided with appropriate due process, consistent with the Convention relating to the Status of Refugees and regional standards for protection, and the opportunity to demonstrate their protection concerns. She also urges States in the region to maintain or implement protection measures and practices, such as the temporary protected status programme implemented by the United States, which up to 2017 included citizens of El Salvador affected by violence.

VIII. Addressing root causes of internal displacement

62. It is essential to address the root causes of internal displacement and important measures have been taken in this respect, including in the context of prevention under the Safe El Salvador Plan. It was frequently emphasized that poverty, economic underdevelopment, marginalization and social deprivation are important factors leading to the structures and activities of gangs. The most affected neighbourhoods and communities are commonly also the poorest and low income localities. Poverty is consequently a key cause of gang membership and it is a sad reality that, as one interviewee described it, "the poor are displacing the poor". These neighbourhoods, in which opportunities are limited, jobs are few and incomes are low, are fertile recruiting grounds for the gangs. Consequently, solutions must go beyond security responses, be holistic and long-term, involving important developmental and economic measures, including job creation, in the short, medium and long terms.

63. Investment in prevention of violent crime is essential and yet currently underresourced despite the Safe El Salvador Plan. The Special Rapporteur was impressed by some social programmes under way in gang-affected municipalities, including Mejicanos and Cuzcatanzingo, that she visited. Municipal mayors emphasized initiatives to provide training and entrepreneurial grants, establish community councils, reclaim public spaces from gang activity and control, and engage the communities and young people in social projects. They constitute important elements of social recovery and community resilience against gang activities. Also, providing and improving pathways out of gang membership is also an important element of measures to erode gang recruitment and influence. In this regard, there remains a need for rehabilitation facilities and refuges, programmes to reintegrate former gang members into society and gang-prevention initiatives aimed at high-risk neighbourhoods and young persons.

64. The five-year development plan of El Salvador can and should be an important element of longer term prevention and solutions in line with achieving the Sustainable Development Goals. Also, the international community should continue to play an important support and assistance role, cooperating and helping to fund vital initiatives to help break the cycle of gang violence and internal displacement and promote social, economic and other solutions for those affected by poverty, violence and internal displacement. Strengthening regional approaches and cooperation in the struggle to confront gang-related violence and internal displacement would be highly positive, recognizing the common challenges shared by Northern Triangle countries.

65. In this regard, the Alliance for Prosperity in the Northern Triangle, under which Northern Triangle countries agreed a set of guidelines and a plan to promote prosperity and create development conditions that will allow people to remain in their countries. The strategic actions of the Plan are aimed at (a) stimulating the productive sector to create economic opportunities; (b) developing opportunities for the people; (c) improving public safety and enhancing access to the legal system; and (d) strengthening institutions to increase people's trust in the State. The plan constitutes a macrolevel economic initiative involving cooperation across the three countries concerned. It should be noted that in October 2017, El Salvador unfortunately decided not to join the Comprehensive Regional Protection and Solutions Framework for Central America, which aims to address in a comprehensive manner the root causes of violence, as well as the multiplicity of factors that are forcing persons to move from and within countries in the Northern Triangle.

IX. Conclusions and recommendations

66. **El Salvador has been described as the most violent country in the world that is not at war. The extraordinary violence and internal displacement that it causes is a hidden tragedy and publicly unacknowledged crisis. Victims of violence and displacement have no choice but to take their safety into their own hands due to the lack of any effective protection system for internally displaced persons provided by the State. For many, this means seeking anonymity and avoiding contact with gangs and with the authorities, which they do not trust to protect them. The Government, while acknowledging the extreme extent of the violence, including through implementation of extraordinary security measures, has nevertheless failed to acknowledge the crisis of internal displacement that is an evident symptom of such violence. This is an essential yet missing step towards providing the necessary protection and durable solutions for internally displaced persons.**

67. **Despite some reported reductions in the overall homicide rates, the current situation constitutes an epidemic of homicide and gang-related violence, with death rates above most conflict-affected countries. The Government, as primary duty bearer, must ensure that it fulfils its human rights obligations to respect, protect and fulfil the human rights of internally displaced persons. Equally, those who are displaced must be aware that they are victims of violations of their human rights and of their entitlements under national and international law and standards for them to claim their rights. Recognition of the problem of internal displacement must be**

rapidly followed by legal, policy and institutional frameworks for the protection of internally displaced persons.

68. Lack of recognition of internal displacement leaves a huge category of victims of violence unprotected and vulnerable. This constitutes a serious omission, derogation of responsibility and failure to protect internally displaced persons. Equally, the overwhelming number of homicides and the inability or failure to investigate and prosecute such crimes creates a culture of lawlessness, impunity and fear. Credible reports of extrajudicial killings and death squads mobilized against the gangs constitute evidence of a failure of policy and the rule of law. Heavy-handed security responses have resulted in a breakdown of trust in the police and military, which must be reversed. Review, and where necessary reform, of policing and justice institutions that are not fulfilling their responsibilities and have lost the trust of those they serve is required. Communities must feel that security personnel are there first and foremost to protect them.

69. The Safe El Salvador Plan is a valuable contribution to efforts to prevent and address violence and protect victims. However, it must be adequately funded and implemented comprehensively and consistently with international human rights standards. It should be strengthened to effectively extend protection to internally displaced persons. While the Government has the duty and obligation to address the challenges of gang-related violence through policing and security responses, these must at all times be appropriate and proportionate to their objectives, while guaranteeing the protection of the civil and political rights of the general population, as well as those of gang members. The work and accomplishments of the police and security forces are acknowledged despite the grave challenges that they face, including the high death rates among them.

70. While legislation and policy development dedicated to addressing internal displacement would provide an essential foundation, in view of the reality of displacement it is essential to rapidly establish and maintain an integral functioning protection system for internally displaced persons. Strengthening institutional attention to internal displacement is essential, including establishing a clear institutional focal point and effective coordination mechanisms among relevant ministries and other entities. Moreover, there is a need to include the participation of internally displaced persons, who are entitled to participate in the decision-making processes relevant to them.

71. A perception exists, even among some government officials, that the only safe solution for those forcibly displaced is relocation outside El Salvador. It must be acknowledged that internal displacement is driving Salvadorians to flee in the region, not only to the United States of America and Mexico, but increasingly to Costa Rica, Nicaragua and Panama. Despite the challenges, national level solutions must be sought that provide viable options for those forced to flee their homes to remain inside El Salvador if they so wish. For those facing genuine protection concerns, asylum outside of the country must always remain a viable option of last resort and receiving States must fulfil their obligations in this respect, including on non-refoulement.

72. To date there is an overreliance on civil society organizations as providers of services to internally displaced persons. The services they provide are critical to those at risk and these organizations must be supported and better resourced to continue their vital work. Nevertheless, they are taking on functions that the State should be fulfilling as part of its responsibilities and obligations under human rights law and standards and as a component of good governance of the internal displacement situation. The Special Rapporteur was saddened to learn that some human rights defenders working for these civil society organizations have been the victims of threats themselves; providing adequate protection measures for them is also a responsibility of the Government.

73 The Special Rapporteur makes the following recommendations.

74. The Government of El Salvador should:

(a) **Publicly acknowledge internal displacement and commit to developing appropriate legal, policy and institutional frameworks for the protection of and assistance to internally displaced persons. Including forced displacement as a specific crime in the Criminal Code will be an important step in this regard;**

(b) **Finalize and publish the findings of the profiling exercise that was carried out, as well as undertake additional data collection and analysis to build a comprehensive picture of the internal displacement situation, identify trends, patterns and risk profiles, and understand the location, needs, protection concerns and intentions of internally displaced persons;**

(c) **Adopt a national legal and policy framework to prevent and respond to internal displacement in accordance with the Guiding Principles on Internal Displacement;**

(d) **Establish an institutional focal point with an appropriate mandate and budget to effectively to implement the legal and policy framework on internal displacement, working across relevant line ministries and in cooperation with United Nations organizations and other national and international partners;**

(e) **Create a viable route for protection and attention to internally displaced persons, including dedicated, specific measures for families, women and girls;**

(f) **Provide secure shelter facilities for internally displaced women with the capacity to accept families, supported by specially trained staff while providing short and medium-term accommodation and support, including psychosocial services, as required;**

(g) **Ensure appropriate budgets to address internal displacement, based on legal and policy frameworks to implement policy measures and programme responses, including at the local level;**

(h) **Give a high priority to locating and providing information and assistance to internally displaced persons throughout El Salvador, including the establishment of a national registration mechanism, operating on inclusive principles and with a focus on the most vulnerable and at-risk individuals and families;**

(i) **Implement a national information campaign, including helplines established as a first means of interaction between internally displaced persons and national or local authorities.;**

(j) **Expand the role of the Directorate for Migrant Care in order to strengthen the identification of deported persons and their protection needs, as well as to develop protection mechanisms and reference pathways for them from the moment of their arrival in the country, when they cannot return safely to their communities of origin due to threats to their life or freedom or of other serious harm. Improve and guarantee security for schools, students and teachers in close consultation with teachers and, where necessary, provide specially trained staff and security measures within or in close proximity to schools;**

(k) **Ensure close consultations with and participation of internally displaced persons to ensure that policy or programme measures meet their needs without putting them at additional risk. Protective measures, including witness protection, should be closely tailored to needs and risk profiles;**

(l) **Identify viable family relocation sites within different departments that provide safe options for the temporary or longer term needs of internally displaced persons with appropriate security and measures to support employment;**

(m) **Review current policing and security policies, practices and structures, including the employment of extraordinary security measures in order to assess their effectiveness and impact on communities and ensure their compliance with human rights standards;**

(n) Ensure prosecutions and access to justice for victims in cases in which crimes have been committed by serving officers;

(o) Enhance community policing and security methodologies, while ensuring sensitivity towards and full consultation with traumatized communities, and take all the steps necessary to create a culture of service, integrity and professionalism based upon human rights standards and national law, while undertaking steps to enhance law enforcement capabilities;

(p) Deploy female police officers as part of wider initiatives to prevent and address violence against women and displaced women and ensure that all members of the police and security forces undergo gender training;

(q) Investigate allegations of extermination groups or death squads conducting summary or arbitrary execution of gang members or suspected gang members in the context of enhanced security measures and bring those found guilty of crimes to justice;

(r) Expand the capacity of national bodies for the protection of women to include programmes and services for internally displaced women and girls, with budgets and capacity sufficient for them to become operational in delivering protection and support initiatives;

(s) Enhance engagement with the lesbian, gay, bisexual, transgender and intersex community to create a dedicated and viable protection process and mechanisms recognizing the heightened risk facing some individuals, particularly transgender women.

The role of regional countries and the international community

75. The regional dimensions of the problem of violence and internal displacement must be acknowledged by regional countries and the international community and appropriate international support should be provided to assist the Government of El Salvador.

76. The principle of non-refoulement, the right not to be returned to a place where one would likely face threats to one's life and freedom or other serious harm, must be adhered to by all States receiving asylum seekers.

77. The immigration policies of receiving countries should ensure that everyone has an adequate opportunity to present their concerns regarding protection, receive adequate screening to access their claims and claim asylum where appropriate.

78. The United Nations and the wider international community should enhance the provision of technical assistance, funding and resources to the Government of El Salvador.

United Nations A/HRC/38/39/Add.2

General Assembly

Distr.: General
10 May 2018

Original: English

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons on her visit to Libya

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, on her official visit to Libya from 25 to 31 January 2018. The report contains the findings and recommendations of the Special Rapporteur.

The humanitarian situation facing internally displaced persons in Libya and the lack of support for them for the protection of their human rights and to achieve durable solutions is of great concern. An estimated 2 to 3 per cent of the total Libyan population is currently internally displaced, according to available data. Strengthening protection and ensuring safety, security and humanitarian assistance must therefore be a high priority in order to save lives and improve living conditions. Libya and the international community must do more to address the ongoing and protracted displacement of hundreds of thousands of people, and provide the essential attention and resources to ensure conditions of safety, and to promote early recovery, resilience-building, reconciliation, and livelihood initiatives, which are necessary to ensure durable solutions for internally displaced persons. The Government of Libya must intensify its efforts to protect and assist internally displaced persons through the development of a comprehensive legal and policy road map based on the Guiding Principles on Internal Displacement and in conformity with international standards, that is established to better meet the immediate and medium- and long-term needs and human rights of these persons. Moreover, the prevention of situations of internal displacement by addressing the root causes, including human rights violations, must be given priority.

Internal displacement has become a permanent feature of life for many in Libya. As a result of not being able to find adequate protection or achieve durable solutions within the country, an increasing number of internally displaced Libyans have to resort to leaving the country, many for Europe. Many Libyans have legitimate protection concerns and it is

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important in that context that they have access to asylum procedures, in line with the Guiding Principles on Internal Displacement.[1]

The current government coordination system does not yet effectively meet the needs of internally displaced persons and should be improved. While the political will to protect and assist these persons through the establishment of a Ministry of State for Displaced Persons' Affairs is commendable, the Ministry's implementation of comprehensive and effective responses has been poor. Responses to those who are in protracted displacement are inadequate, and those who face discrimination because of their displacement are often left to fend for themselves. While some government officials point to resource and capacity shortfalls to account for their lack of action, others do not even acknowledge the specific vulnerabilities facing many internally displaced persons, which require specific measures, and these are therefore all factors that must be addressed.

A stronger commitment is required from the Government of Libya to address the particular challenges experienced by people displaced from their homes, and in particular those who continue to be persecuted and discriminated against after fleeing. The mere physical return of internally displaced persons is not equivalent to solving the issue of internal displacement in Libya, and in order to achieve durable solutions, internally displaced persons should no longer face human rights and protection issues linked to their displacement. It is essential to put internally displaced persons at the heart of the decisions affecting them, with their full and effective participation.

The situation of internally displaced persons in areas controlled by non-State armed groups should likewise be acknowledged. Non-State armed groups have obligations under international law to protect the civilians in the territories they control and to ensure that arbitrary displacement does not occur.

[1] It is stated in principle 15 that internally displaced persons have the right to leave their country (principle 15 (b)), the right to seek asylum in another country (principle 15 (c)) and the right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk (principle 15 (d)).

Report of the Special Rapporteur on the human rights of internally displaced persons on her visit to Libya*

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* Circulated in the language of submission and Arabic only.

I. Introduction

1. The Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, visited Libya at the invitation of the Government of National Accord, from 25 to 31 January 2018. The Special Rapporteur takes this opportunity to thank the Government of Libya for its cooperation with her mandate and its full respect for the implementation of her terms of reference as a special procedure mandate holder of the Human Rights Council. Moreover, the visit was the first ever made to Libya by a Special Rapporteur.

2. The Special Rapporteur met government officials, including the Chair of the Presidential Council of Libya and Prime Minister of the Government of National Accord, the Deputy Foreign Minister, the Minister of Justice, the Minister of State for Displaced Persons' Affairs, the Minister of Local Governance, and other ministry officials and interministerial committee members. She met the head of the internally displaced persons department (in the Ministry of State for Displaced Persons' Affairs), the head of the governorates and municipalities department, the international organizations director from the Ministry of Foreign Affairs, the head of Tawergha Local Council and members of the follow-up committee for Tawerghans' return. She also met with municipal officials of Misrata in Misrata and in Tripoli, as well as with former members of the Benghazi municipal council. Furthermore, she consulted with members of the diplomatic community in Tunis.

3. The Special Rapporteur met with the United Nations country team, and thanks in particular the Special Representative of the Secretary-General for Libya and Head of the United Nations Support Mission in Libya (UNSMIL), as well as the Deputy Special Representative for Libya and Resident Coordinator and Humanitarian Coordinator, and their team, for facilitating all aspects of her visit. She also thanks the numerous other United Nations agencies and other organizations and their representatives with whom she met, particularly from the International Organization for Migration, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office for the Coordination of Humanitarian Affairs, as well as members of the Protection Sector, the International Committee of the Red Cross and other non-governmental organizations who provided valuable information relating to the issue of internal displacement and who are working to provide support and assistance to internally displaced persons in Libya. She also expresses her particular gratitude to the staff of the UNSMIL Human Rights, Transitional Justice and Rule of Law Division, for their continuous and generous support in the preparation and conduct of her visit.

4. The Special Rapporteur met with internally displaced persons themselves and their representatives, who, in the Special Rapporteur's view, it is essential to consult with and listen to, and she thanks in particular those community members, activists and civil society representatives who met with her and provided essential information.

5. The main objectives of the Special Rapporteur's visit to Libya were to consult widely with government representatives, both at the national and the local levels, with United Nations bodies and specialized agencies, with civil society, and with other key national and international stakeholders on issues relating to internal displacement in Libya, and to identify the main humanitarian, human rights and protection concerns facing internally displaced persons. During her seven-day visit, the Special Rapporteur travelled to Tripoli, and to areas in the vicinity of Tripoli, as well as to Misrata where she met with numerous internally displaced persons who told her about their situations and challenges and their hopes for solutions. She regrets that she was unable to visit those affected by displacement in more remote areas in southern Libya, due to security-related limitations, where the conditions are reportedly of particular concern. Moreover, the Special Rapporteur regrets that the planned visit to Benghazi was cancelled at the last minute by the Benghazi authorities, seemingly due to logistical reasons. The cancellation was extremely unfortunate, as the Special Rapporteur was not able to listen to the views of the Benghazi authorities and to see first-hand the conditions causing a continuous fleeing of persons from

Benghazi, the conditions causing former residents not to be able to return, and the situation of internally displaced persons under the control of the Benghazi authorities.

II. The context of internal displacement in Libya

6. Libya has experienced several waves of armed conflict and internal displacement since the 2011 revolution between forces loyal to Colonel Muammar Gaddafi and those seeking to overthrow his Government. Libya has since suffered from political instability and clashes between rival armed groups, which further escalated in 2014, triggering armed conflicts in Benghazi, Tripoli, Misrata and other cities and causing civilian deaths, massive displacement and widespread destruction of property. An estimated 400,000 people (equivalent to 6 to 7 per cent of the country's population) became internally displaced in 2014 as a result of the nationwide renewed conflict, and many are still suffering the effects of this displacement, even those who have since returned.

7. Armed conflict in populated areas and political instability directly impacted the lives of an estimated 1.62 million Libyans across the country in 2017, and have resulted in 1.1 million people being in need of humanitarian assistance, including 170,000 internally displaced persons[2] whose access to basic necessities has been disrupted, including cash, fuel and electrical power. Moreover, the ongoing conflict and restricted access are constraining life-saving protection and humanitarian assistance throughout the country. Affected populations across Libya continue to face critical protection challenges, including risk of death and injury due to the reported indiscriminate use of weapons, lack of government protection of citizens, restricted freedom of movement, high levels of contamination by explosive hazards affecting human security,[3] and conflict-related psychological trauma. The number of internally displaced persons with mental health and psychosocial problems, including severe psychological distress, has increased substantially as a result of the conflict and the forced displacement they have faced.

8. Although the vast majority of the current displacement situation in Libya stems from the armed conflict, that is not the only factor causing displacement in the country. Other significant causes of displacement include human rights violations, violence, and persecution, as well as fleeing for fear of the factors just stated.[4] The Special Rapporteur emphasizes that these causes of internal displacement fall clearly within the scope of the Guiding Principles on Internal Displacement.

9. Displacements are still ongoing in Libya, with multifaceted causes, such as tensions leading to armed clashes in cities, lack of access to basic services, conflicts related to housing, land and property, political persecution, attacks based on alleged terrorist or party affiliations, and tribal and ethnic conflicts. During her visit, the Special Rapporteur was frequently informed by internally displaced persons that they had witnessed or been victims of human rights violations by several parties to the conflict, such as torture, unlawful

[2] According to the 2018 Libya Humanitarian Response Plan and Humanitarian Needs Overview, see https://reliefweb.int/report/libya/2018-libya-humanitarian-response-plan-january-december-2018 and https://reliefweb.int/report/libya/2018-libya-humanitarian-needs-overview-december-2017.

[3] The United Nations Mine Action Service has prioritized the capacity enhancement of local actors such as the Libyan Mine Action Centre. Since 2015, the United Nations Mine Action Service has trained over 70 National Safety Authority operators and military engineers in advanced explosive ordnance disposal. The United Nations Mine Action Service has also assisted the Libyan Mine Action Centre in developing the Libyan Mine Action Standards.

[4] According to the International Organization for Migration's Displacement Tracking Matrix for January and February 2018, 8 per cent of internally displaced persons indicated that threats or fear of general conflict and violence and armed group presence were the main drivers of their displacement. 15 per cent mentioned other security-related issues, such as political affiliation, and the remaining 2 per cent stated economic factors. In addition to conflict and the presence of armed groups preventing 75 per cent of internally displaced persons from returning, some 18 per cent of such persons reported that their continuing displacement was due to other security issues. The threat or presence of explosive hazards was reported as hindering the return of 2 per cent of internally displaced persons, and economic factors (including lack of livelihood opportunities) accounted for the continued displacement of 1 per cent.

killings, indiscriminate attacks, abductions, kidnappings and enforced disappearances,[5] and that there had not been accountability for those violations, thereby barring their return to their places of origin.

III. National legal, policy and institutional responses for protection and assistance for internally displaced persons

10. Having in place appropriate and effective institutions at the national and municipal levels to respond to internal displacement is essential to having a coordinated and comprehensive response to internal displacement. The Government of Libya has taken an essential first step by creating a Ministry of State responsible for displaced persons' affairs and designating a Minister, and by establishing a high committee for the return of internally displaced persons, and other council-level committees, across parts of the country. This positive demonstration of some political will and commitment must be acknowledged and is highly commendable.

11. Improved coordination mechanisms within the Government of Libya are needed in order to have clearer objectives and greater clarity about the roles of key institutions in responding to internal displacement, as well as about their partnerships with both national and international partners. This should be addressed as a matter of priority. The Special Rapporteur was informed that the allocation of resources, and the coordination across the ministries and between national and municipal counterparts, remains poor. Nevertheless, with the appropriate resources, capacity and — above all — political will, the Ministry of State for Displaced Persons' Affairs has the potential to function more effectively and be better able to respond to the internal displacement situation.

12. The main responsibility for responding to internal displacement falls on the Government of Libya, yet it undeniably faces an immense task that it cannot cope with alone. It is clear that an urgent and coordinated response from the Government of Libya and national and international development and humanitarian organizations working in stronger partnership with each other is required. The Government of Libya must support United Nations and other humanitarian and development actors so that they can operate freely in areas under its control and where security allows it, with unhindered access to all locations and internally displaced populations.

13. While humanitarian assistance must be the highest priority so as to reduce vulnerability and enhance the protection environment, the Government of Libya, together with its national and international humanitarian and development partners, must already begin to take steps towards supporting internally displaced persons so that they can achieve durable solutions and towards improving recovery strategies. It should also prioritize community reconciliation and social cohesion projects[6] that address the possibility of return for some or local integration for those who are unable or unwilling to return, and also adequately address the issues of host communities. Where the possibility of voluntary, safe and dignified return exists, it must be recognized that justice, reconciliation and the rebuilding of trust between communities may be required in the short, medium and long term and that this may require specially trained units, police officers and other public officials to prevent tensions from emerging. Addressing internal displacement within national development frameworks, including implementing the Sustainable Development Goals, is vital in order to achieve durable solutions for those in protracted displacement.

[5] Corroborated in S/2017/726, which was submitted pursuant to Security Council resolution 2323 (2016).

[6] UNHCR initiatives include increasing social cohesion and mitigating conflict between internally displaced persons and host communities through the implementation of community assistance projects. In 2017 and 2018, UNHCR is planning to implement more than 200 quick-impact projects throughout Libya. The "Together We Rebuild" community stabilization programme, of IOM, seeks to address drivers of displacement and instability by restoring services and community infrastructure, promoting social cohesion and supporting the reintegration of livelihoods. IOM has supported the improvement of access to water for more than 47,000 inhabitants in Sabha and Qatroun and has rehabilitated 16 schools and 18 prefabricated classrooms.

14. While the country is perceived as an upper middle-income country with vast oil resources, the cost of the conflict has taken a severe toll on the Libyan economy, which remained in recession for the fifth consecutive year in 2017.[7] Political strife, poor security conditions and blockaded oil infrastructure continue to constrain the supply side of the economy, which is now near collapse. Several of those that the Special Rapporteur met with expressed frustration at how this current economic "liquidity" crisis[8] is exacerbating — in particular — the difficulties faced by vulnerable internally displaced persons, as well as the capacity and ability of the Government of Libya to respond comprehensively to the internal displacement challenges.

15. It must be stressed that in the midst of the economic crisis, which is exacerbating the lack of response to the displacement situation, there are very specific displacement-related issues that are not experienced by the general population and that need to be addressed. The approach of the Government of Libya has been largely ad hoc, and it must intensify its efforts, prioritize the allocation of necessary resources, and ensure essential planning to meet the needs of internally displaced persons.

16. In order to improve the response of the Government of Libya to the displacement crisis, a vital step will be to put in place a comprehensive road map on internal displacement, with the participation of a broad range of stakeholders, implemented nationally and developed with full participation of the relevant municipalities and of internally displaced persons themselves. It must have the necessary budgets in place, and guide governance and response structures effectively. Local governments and authorities, as front-line providers of protections and assistance, must be empowered to implement and manage the road map.

17. The signing and ratification of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) could also be helpful to the Government of Libya as a guidance tool to regulate the Government's actions at the national and regional levels. National policies and legislation to address the needs of internally displaced persons can provide an effective framework on how to protect civilians from involuntary displacement, and on being prepared to respond to possible displacement, protect and assist displacement-affected communities during displacement, and create conditions enabling safe, voluntary and durable solutions to internal displacement.

IV. Critical humanitarian and human rights challenges

A. Humanitarian access to internally displaced persons

18. Most foreign embassies, the United Nations, the International Committee of the Red Cross and other international agencies were forced to withdraw their international staff and to mostly operate remotely, starting in 2014, due to the deteriorating security situation. For the United Nations, although it is now increasing the numbers of staff on rotation in Libya, the restricted presence of agencies and international staff due to the security situation continues to be a major challenge.

19. The protection[9] and human rights activities of the international community have thus been restricted since 2014, which has complicated many operations and activities, engagement with communities, and engagement with local authorities, as well as attempts to collect comprehensive information. Operating in Libya remains hazardous and

[7] World Bank, "Libya's economic outlook — April 2017"; see www.worldbank.org/en/country/libya/publication/economic-outlook-april-2017.

[8] Lack of cash in the formal markets is identified as one of the main needs among internally displaced persons, which further exacerbates their vulnerability and triggers negative coping mechanisms; see Office for the Coordination of Humanitarian Affairs (OCHA), 2018 Humanitarian Needs Overview.

[9] In December 2017, the Protection Sector led by UNHCR started convening field protection sector meetings in Tripoli, in order to involve more local civil society organizations and representatives from various authorities.

unpredictable, due to multiple factors such as presence of mines and explosive devices, threats of abductions and the kidnapping of international personnel, proliferation of armed groups with no clear chain of command, and continued conflict and violence.

20. Lack of sustained and regular humanitarian access across Libya continues to be a challenge for humanitarian partners and puts the lives of vulnerable internally displaced persons at risk. The main causes for access restrictions, as reported to the Special Rapporteur, are periodic clashes among armed groups, the existence of unexploded ordnance and landmines, bureaucratic and varying procedures imposed on the movements of humanitarian organizations, lack of authority in some areas, and inaccessibility due to besiegement and remoteness.

21. United Nations representatives, and other humanitarian representatives, expressed concern to the Special Rapporteur about the lack of access or restricted access to many areas in southern and eastern Libya, due to ongoing conflict, and consequently not being able to reach many internally displaced persons in desperate need of assistance. Heavy security measures and constraints by the United Nations and other humanitarian actors also makes timely access difficult in many cases. Even in liberated areas, unexploded ordnance and landmines are reported as being a significant hindrance to accessing the population.

22. Where security allows it, the Government of Libya must assist the United Nations and other humanitarian actors to operate freely in areas under its control, with unhindered access to all locations. Moreover, armed groups, including those aligned to the Government, have an obligation to facilitate, rather than hinder, such access.

23. Bureaucratic barriers imposed by the Government of Libya, and other restrictions or unjustifiable opposition to the carrying out of programming supporting internally displaced persons and at-risk communities, are currently a major impediment to the work and effectiveness of humanitarian and development actors, and should be put to an end.

24. The situation of those in hard-to-reach locations remains extremely difficult to assess and is a major cause for concern. It is imperative that the Government of Libya ensure that efforts are stepped up to provide assistance to the fullest extent possible to the vulnerable communities in these areas, including those at protection risk because of tribal conflicts and land issues.

B. Displacement data

25. During the time of the Special Rapporteur's visit, the estimated number of internally displaced persons, according to available data, who were still displaced in Libya was approximately 193,000, and the number of displaced persons who have returned to their areas of origin since the beginning of 2016 is around 317,000.[10]

26. Internal displacement in Libya is characterized by a combination of major displacement movements due to armed conflict as well as urban-to-urban and multiple displacement of individuals and families from different localities due to human rights violations and persecution based on perceived political and ideological affiliations. Consequently, the actual total number of those affected by internal displacement is difficult to estimate, as many internally displaced persons seek anonymity due to fears for their safety and security, and some leave the country to find safety and protection elsewhere.

27. Several government officials that the Special Rapporteur met during the mission downplayed the extent of the displacement problem within Libya, in clear contrast to credible evidence and information provided by local authorities, civil society and international organizations. This demonstrates the urgent need for more comprehensive disaggregated data on internally displaced persons, including on the most vulnerable, in order to monitor the protection needs of women, children, youth, older persons, and persons with disabilities.

[10] IOM Displacement Tracking Matrix, September to November 2017.

28. While some positive steps have been taken with regard to data collection, including through the International Organization for Migration's Displacement Tracking Matrix, and via other surveys and assessments, a credible profiling exercise of the internal displacement situation remains essential in order to build a comprehensive picture of the issue, identify trends and causes as well as risk profiles, and understand not only the numbers of those affected but also their locations, needs, protection issues and durable solutions preferences, in comparison with the needs of host communities. This is essential in order to find sustainable solutions for many hidden and anonymous[11] internally displaced persons, and would provide to the Government of Libya and its humanitarian and development partners a necessary evidence base to plan, design and implement adequate responses for protection, assistance and durable solutions for internally displaced persons.

C. Documentation and access to services

29. Challenges relating to personal documents and civil documentation were frequently raised by the internally displaced persons whom the Special Rapporteur met with. Many had left their documents behind as they fled their homes and consequently now faced challenges in gaining access to services, assistance and employment. Without documents, their freedom of movement and ability to reach safe locations may also be severely restricted, as they are hindered in passing checkpoints. Of particular concern is the requirement for internally displaced persons to travel back to their place of origin in order to complete the necessary administrative requirements to reissue valid identity documents. Internally displaced persons are frequently not able to do so safely and this requirement may therefore put them in danger.

30. Recognizing these security and logistical challenges facing internally displaced persons, the national Government and the municipal authorities should therefore take the steps necessary to ensure that documentation can be issued, and banks accessed, in places of displacement rather than in places of origin, and with no undue administrative obstacles. The Special Rapporteur urges the Government of Libya to give high priority to this issue and ensure that civil documentation is available to internally displaced persons — including birth, marriage and death certificates. This may require innovative solutions, including the use of mobile documentation and facilities to reach people in the locations they have been displaced to.

31. In the internally displaced persons' informal settlements that the Special Rapporteur was able to visit, essential needs were being met, and it was encouraging to note that parents reported that their children were attending schools, and that most facilities had some form of primary health-care service in place. Some of the internally displaced women with whom the Special Rapporteur met informed her that they had been able to give birth at hospitals, without any restrictions. Nevertheless, some internally displaced persons still remained in informal settlements six to seven years after their displacement, in cramped and extremely basic shelters, with several family members sharing a single room and with communal bathing and cooking facilities. Furthermore, the most vulnerable internally displaced persons had few or no coping mechanisms to protect and support themselves, and access to essential household goods such as food had been reduced due to insecurity, inflation and limited availability of cash in the country.

32. The situation of many internally displaced persons in the south of Libya, where access is entirely restricted for most of the international community due to security concerns, is largely unknown and neglected, which is deeply worrying. The Special Rapporteur was deeply concerned by information provided to her through testimonies by internally displaced persons and reports from humanitarian actors that many internally displaced persons and overstretched host families in the south are allegedly living in dire

[11] In Libya, many internally displaced persons flee to urban centres in an attempt to hide more easily from the persecution that triggered their displacement, and it is therefore vital that anonymized methodologies such as profiling (as opposed to registration of internally displaced persons) be used to distinguish internally displaced persons from host communities and migrants, especially in urban centres.

circumstances, and in situations of insecurity, and lack access to basic services and work due to long-standing underdevelopment of the region. During the Special Rapporteur's visit, she was repeatedly told of the reportedly complete absence of adequate services in the south, including of functioning hospitals[12] and schools, which was forcing many to leave their homes.

D. Displacement outside of camps

33. The majority of the internally displaced persons in Libya do not live in formal camps, but instead cluster in informal settlements such as abandoned factories, or stay in homes to escape or hide from potential sources of persecution. Moreover, many internally displaced persons are displaced in urban areas,[13] where their plight is less visible. This must not lead to complacency about the situation of these hundreds of thousands across the country who are still trying to rebuild their lives. The impact on their lives is immense and the vulnerability and suffering that they endure is devastating, and this must be recognized and addressed consistently by the Government of Libya and its national and international partners.

34. No verified figures are available regarding the total number of Libyans who are displaced in cities such as Tripoli and Benghazi, partly because many internally displaced persons avoid being registered, out of fear for their safety. The Special Rapporteur is concerned that this aspect of displacement in Libya is therefore relatively less attended to, both nationally and internationally.

35. The majority of those outside so-called camps are receiving little if any humanitarian assistance and their situation must be better understood and addressed, as must the needs and problems of the host communities supporting them. This will require data, resources and expertise that are currently absent and must be quickly put in place. Those who are not in camps must not be left to fend for themselves and they must be identified and provided with relevant information and assistance to the fullest extent possible.

36. Frequently, internally displaced persons are living in substandard conditions in unfinished or abandoned buildings. Most are living in rented accommodation or empty factories where they are forced to pay rent. This often leads to depletion of their financial resources and their eventual eviction, and to renewed displacement, due to their inability to pay rent over the long term and in the absence of opportunities to earn a livelihood. Such internally displaced persons face not only harsh conditions but also uncertainty about their futures because of insecurity of tenure.

37. The elderly, children, persons with disabilities, pregnant women and other highly vulnerable persons must be the highest priority in these cases.

E. Discrimination and security challenges facing those fleeing the east

38. Many internally displaced persons in Libya who experience constant insecurity in their places of origin take the difficult decision not to return to their homes. This is particularly the case of internally displaced persons from the east of the country, who primarily have become displaced as a result of violations against them by the de facto authorities and are now facing even more violations after having been displaced. The Special Rapporteur met with persons displaced from Benghazi to Tripoli and to Misrata,[14]

[12] An estimated 20 per cent of all hospitals in Libya have been destroyed due to the armed conflicts. Some humanitarian and development actors are implementing projects to restore services to a certain extent.

[13] OCHA, Humanitarian Needs Overview 2018; available at https://reliefweb.int/sites/reliefweb.int/files/resources/2018_LBY_HNO_Final%20v2.1.pdf.

[14] During the mission, newly displaced persons from Benghazi were still arriving in Misrata, their displacement reportedly being triggered by summary executions of civilians in Benghazi. The current security situation in Benghazi is such that the return of internally displaced persons to Benghazi is

who were not able to return home on account of security concerns, impeded freedom of movement and a fear of becoming victims of violations of human rights, including arbitrary arrests, torture, unlawful killings, indiscriminate attacks, disappearances and forced displacement. This demonstrates that durable solutions do not lie in their mere physical return. Many of the internally displaced persons with whom the Special Rapporteur spoke also shared stories of not feeling safe even within the cities in which they were now living, and experiencing daily discrimination, which interfered with their ability to secure livelihoods for themselves and their families. In many cases, this fear even prevented them from requesting assistance from the authorities.

39. Although the Special Rapporteur is well aware that discrimination is not a policy of the Government of Libya, it is still very much present in Libya and particularly targets internally displaced persons. Many children experience discrimination from teachers due to their perceived affiliation to members of armed groups. Specific measures should be adopted by the authorities to counter this. One 7-year-old girl originally from Benghazi, whom the Special Rapporteur met in one of the informal settlements in Misrata, told her that she did not like going to school "because the teachers hate me and they say I am a child of terrorists and should go back to where I belong".

40. Regrettably, the Special Rapporteur was informed by numerous internally displaced persons from the east that they or their family members had suffered arbitrary detention, torture, or disappearance of family members, and/or had witnessed executions. Investigations into these abuses must be taken extremely seriously and perpetrators must be held accountable for these violations. There is apparently little trust in the judicial system, and the Special Rapporteur was told on a number of occasions that many judges and lawyers are pressured into not taking on cases involving human rights abuses against internally displaced persons due to political sensitivities. During the Special Rapporteur's visit to one of the informal settlements, she was informed about the establishment of a "committee of affected populations in charge of missing persons" set up by the internally displaced persons themselves due to many of their relatives still being missing after the clashes. Moreover, some family members had reached out to the International Committee of the Red Cross and other organizations for support with family tracing. They were also actively requesting psychosocial support for family members and especially for widows with missing husbands.

41. Several internally displaced persons reported to the Special Rapporteur that in light of the risk of abuses they faced, and the lack of protection and of livelihood options for them in Libya, they were seriously contemplating leaving the country. In fact, it was reported to the Special Rapporteur during the visit that some internally displaced persons ended up taking dangerous migration routes[15] in an attempt to seek protection outside of the country.

42. There is also a fear among many internally displaced persons that their young people are at high risk of being recruited by armed groups. While legitimate security concerns were reported to the Special Rapporteur by the Libyan authorities, including that fighters from Islamic State in Iraq and the Levant may try to infiltrate internally displaced communities, it must be recalled that the overwhelming majority of internally displaced persons are innocent victims of conflict and they must be respected and treated on a humanitarian basis within the framework of protection of civilians.

43. Arrest and detention of internally displaced persons was reported during the visit numerous times and raises concerns with regard to due process, duration of detention, and living conditions and treatment in prisons which included allegations of torture and of lack of access by lawyers and family members of those detained. Many internally displaced persons from Benghazi have been targeted on suspicion of supporting terrorist groups, and many of those displaced whom the Special Rapporteur spoke with reported that male family members had been detained since 2014 and that they had had little or no information about

strongly discouraged.

[15] In these cases of desperation to leave, there is a high risk of internally displaced persons becoming victims of trafficking or smuggling.

their whereabouts or contact with them. International standards require that no person can be arbitrarily detained or held without charge, and those who have not been charged with a crime should be released without delay.

44. The Special Rapporteur was deeply disappointed at not being able to visit the east of Libya, as intended. Despite extensive discussions with the Benghazi authorities about the planned visit, and with detailed preparations already in place, the visit was cancelled at the last minute by the Benghazi authorities, much to her regret. The Special Rapporteur would strongly urge that renewed attention be paid to the plight of the internally displaced persons in the east of the country.

F. Protection for vulnerable groups

45. The Special Rapporteur was particularly concerned about the protection issues and assistance challenges associated with specific, highly vulnerable groups of internally displaced persons, including children, women and girls, older persons, persons with disabilities and those from targeted ethnic or tribal groups. There remains a lack of data and comprehensive needs assessments regarding such vulnerable groups and their circumstances. Older persons and those with disabilities, for example, may face challenges living in unsafe locations, informal camps, and tents and shelters that are unsuitable for extremes of temperature. Their coping mechanisms are weaker than those of others, which means that they are more heavily reliant on humanitarian assistance and require dedicated support. Many were forced to flee without their possessions or any essential household items, and have been in need of basic items such as mattresses, blankets, hygiene kits and kitchen sets.[16]

46. The situation of women and girls in internally displaced persons' settlements and conflict-affected areas is of particular concern, and although the Special Rapporteur was not informed directly of allegations of rape or sexual and gender-based violence, there remains a big concern that this may constitute a hidden crisis of abuse, with fear, stigma and cultural factors as well as impunity for perpetrators leading to the underreporting of abuse to the relevant authorities.

47. Numerous reports on protection and gender profiles in Libya show that sexual and gender-based violence is widespread, particularly against vulnerable women and girls, such as those in situations of displacement. According to several reports submitted to the Special Rapporteur, violence against internally displaced women and girls ranges from psychological and verbal abuse to kidnapping, rape and other forms of sexual assault. Due to stigma, fear of retaliation, weak reporting structures, lack of specialized staff and a lack of trust in the formal judicial system, these cases of sexual and gender-based violence are widely underreported in Libya.[17] This avoidance of the formal justice system and breakdown of the rule of law has reportedly led to impunity for members of armed groups who perpetrate sexual and gender-based violence on all sides of the conflict.

48. Information submitted to the Special Rapporteur indicates that the vast majority of survivors of sexual and gender-based violence in Libya do not receive adequate assistance. There is a noticeable lack of government policy structures,[18] institutional capacity and resources for the provision of multisectoral services for survivors of sexual and gender-based violence (including health care, psychosocial support, legal aid and other support

[16] In 2017, IOM supported 9,433 internally displaced families (51,882 individuals) by providing them with non-food items, and UNHCR provided core relief items to 61,279 internally displaced persons and returnees, as well as cash-based interventions to over 2,040 households.

[17] Gender Situational Analysis in Libya, United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), 2016; Libya Humanitarian Response Plan, 2017; and European Union/External Action Service Update of the Gender Profile: Libya, Huda Gashut, 2017.

[18] Libya acceded to the Convention on the Elimination of All Forms of Discrimination against Women in 1989, but made a general reservation that accession "cannot conflict with the laws on personal status derived from the Islamic sharia".

services). Assistance by international organizations also remains limited, considering the great extent of the unmet needs.[19]

V. Prospects and challenges for the achievement of durable solutions

49. Achieving durable solutions enables internally displaced persons to resume their normal lives. Principles 28 to 30 of the Guiding Principles on Internal Displacement make provision for durable solutions and the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons provides guidance on how to achieve durable solutions, which is often a complex process.[20]

50. In many locations of possible return in Libya, houses[21] and infrastructure have been destroyed. Many cities are contaminated with explosive remnants of war and a state of fear prevents internally displaced persons from returning.[22] Full assessment of safety and security in those localities needs to take place. Any returns must be voluntary, monitored, safe and dignified. Many areas require complete reconstruction before return becomes a possibility.

51. The nature of the conflict in 2011 meant that the entire population of the city of Tawergha — approximately 43,000 people — were forced to flee their homes. The majority of them sought refuge in informal settlements around Tripoli or Benghazi. People have now been internally displaced for seven years, and many of the Tawerghans that the Special Rapporteur spoke with were eager to return home but were also apprehensive about the conditions they would find upon returning. Following a political dialogue from 2015 to 2017 between the Tawerghans and the Misratans, an agreement was reached by the two communities for the Tawerghans to return on 1 February 2018. However it was clear from all the actors the Special Rapporteur spoke to that there was an immense lack of communication regarding the return, and of clarity of leadership and accountability regarding reconstruction and the re-establishment of services needed in order to provide sustainable livelihoods.

52. The lack of preparation and of unified agreement on the scheduled return of the Tawerghans on 1 February 2018 has led to thousands of Tawerghans being barred from returning and being now forced to live in makeshift shelters in the desert.[23] Armed groups from nearby Misrata blocked the Tawerghans' return,[24] and many children, women and men are now stranded in the desert and suffering extremely poor living conditions, such as poor sanitation, lack of access to health facilities, shortages of medicines, and limited drinking water. Although some of the families camping out in the desert are receiving life-

[19] A gender-based violence sub-working group has just been established under the protection sector and the mixed migration working group, and on the basis of an initial service mapping, it is evident that support services to counter gender-based violence are limited in the country.

[20] See UNHCR, Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons*, June 2010.

[21] According to principle 21 of the Guiding Principles on Internal Displacement, internally displaced persons' property may not be destroyed as a form of collective punishment and authorities must take steps to protect their property from arbitrary and illegal appropriation or occupation; in principle 29, it is stated that the competent authorities have the duty and responsibility to assist internally displaced persons with recovery, restitution or compensation. See also the principles on housing and property restitution for refugees and displaced persons, of 2005; the basic principles and guidelines on development-based evictions and displacement, of 2007; and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, of 2012.

[22] Recent figures suggest that hundreds of thousands of people living in major cities are at a high risk of death or serious injury due to explosive remnants of war. According to a UNHCR and Mercy Corps vulnerability assessment conducted in December 2016, unexploded ordnance is among the main protection concerns for internally displaced persons, particularly in Benghazi.

[23] This was the situation at the time of the writing of the present report (March 2018).

[24] Human Rights Watch, "Libya: residents barred from returning home", 16 February 2018, available at https://www.hrw.org/news/2018/02/16/libya-residents-barred-returning-home.

saving assistance from host communities, as well as from local and international humanitarian actors, it is essential that the Government of Libya fulfil its international obligation to protect and assist them and that it take concrete action to ensure the Tawerghans' safe, voluntary and dignified return.

53. The return of the Tawerghans to an area that experienced intense fighting also exposes them to risks, including the danger of explosive remnants of war. One young Tawerghan girl that the Special Rapporteur met with in one of the settlements expressed apprehension about returning due to a fear that mines may be hidden in her home. It is essential for the return of all Tawerghans to be voluntary and informed and for them not to face pressure to return prematurely. It is vital that the rest of their return process be monitored.

54. For those Tawerghans who continue to live in informal settlements until returning home, the Government of Libya, local authorities and international actors should promote and support efforts by internally displaced persons to be better organized, through the establishment of committees, and should ensure their participation in the management of the informal settlements. It is especially crucial for women and children to be given a forum where they can express their needs and for them to have a stronger and more unified voice.

55. It cannot be stressed enough that the mere physical return of internally displaced persons is not equivalent to solving the issue of displacement, and it is imperative that the Government of Libya ensure the safety of internally displaced persons, and assistance for them, during their return, as well as the rebuilding of their homes and their standard of living. So long as there remain unresolved displacement-related issues, internally displaced persons remain internally displaced persons and have not achieved durable solutions.

56. The Special Rapporteur received numerous reports concerning the primary groups of protracted internally displaced persons in Libya, which include those from Tawergha, Gwalesh, Mashashiya, Benghazi and Warshefana, who are unable to go back to their places of origin out of fear of retaliation and a lack of physical safety for them and their families. The fear and the security conditions are the main reasons why local reconciliation efforts and agreements to encourage their return have so far failed. This protracted internal displacement situation for several ethnic groups [25] in Libya further hampers any reconciliation efforts, due to the prolonged disconnection between those who were forcibly displaced and those who could stay behind.

57. Durable solutions and transitional justice steps need to be integrated at the earliest phase of a return process. Massive investment in rebuilding homes and infrastructure will be required, as well as a strategy for development, in order to prevent further displacement or situations of protracted displacement. It is essential that development partners be engaged at the earliest phase to integrate development approaches into the humanitarian phase — such as re-establishing livelihoods and initiating recovery programmes.

58. Consultation and participation of internally displaced persons in processes that affect them could be improved. The Government of Libya has not established mechanisms to ensure consultation with internally displaced persons or their participation in decision-making, and their meaningful involvement in reconciliation processes has not been facilitated.

VI. Role of the international community

59. Other ongoing crises have understandably required much-needed attention and resources from the international community. Nevertheless, it is vital that attention to Libya does not fade at this critical point in time when attention to durable solutions for internally displaced persons is needed and when humanitarian and development support needs to be maintained and enhanced.

[25] Testimonies show that discrimination in the south of Libya against minority ethnic groups is the trigger causing them to flee their homes.

60. Humanitarian actors in Libya must be commended for the essential work they undertake under extremely difficult conditions. However, they are stretched thin and can only work within the confines of the resources and access that they have, which is gravely inadequate at the present time. These dedicated agencies bear the brunt of the criticism on the ground, and yet it is the lack of access, and the shortfall in funding[26] across all sectors — including health, food, water and sanitation, and most of all, protection — that hampers their work and requires the urgent attention of the Government of Libya and the international community. While the Government of Libya lacks the capacity and appropriate prioritization of resources to fully meet the humanitarian needs of internally displaced persons and development and reconstruction requirements, it is imperative that the international community does not turn its back on these issues in Libya and remains a consistent and reliable partner in providing humanitarian and development assistance. Improvements are also needed at the local level, where numerous local actors and United Nations agencies seemed to not be fully coordinated in terms of implementing in a more holistic manner on the ground. A comprehensive internally displaced persons response strategy for the humanitarian actors would be a valuable tool in this regard.

61. The launch of the Humanitarian Response Plan for 2018,[27] held on 25 January 2018 in Tripoli, and in which the Special Rapporteur participated, was a positive reinforcement that the humanitarian plight of the Libyan people continues to be of concern to the international community. The challenges facing the Government of Libya are massive and yet its capacity to respond is limited and constrained, including by the economic crisis.

62. The international community must urgently bolster support to humanitarian agencies working tirelessly to alleviate the suffering of the hundreds of thousands of people affected by the displacement crisis.

VII. Conclusions and recommendations

A. General remarks

63. **Primary responsibility for protecting and assisting internally displaced persons lies with national authorities. The Government of National Accord of Libya has demonstrated some political will and commitment to addressing the situation, but intensified efforts are required to meet the humanitarian needs and protect the human rights of the many internally displaced persons. The Special Rapporteur was disappointed to learn that Libya has neither a legal framework for addressing the rights and needs of those persons, nor a comprehensive policy in line with international standards, including the Guiding Principles on Internal Displacement. This hampers the ability of the Government of Libya and other partners to respond to internal displacement with coordinated and clearly defined protection and accountability mechanisms, structures and protocols and with dedicated budgets. Greater political will and prioritization is essential to address the weakening of resources due to the conflict and prevailing economic conditions, which along with the fragmentation of authority is reducing its capacity to respond effectively to the displacement crisis.**

64. **In view of the complex nature of the crisis in Libya, a national road map would ensure clearly defined responsibilities across ministries and other dedicated bodies, including the Ministry of State for Displaced Persons' Affairs and various committees, which would allow for more systematic, comprehensive, and legally based responses.**

[26] According to the OCHA Financial Tracking Service, in 2016 only 39 per cent of the total required humanitarian funding appealed for in the Humanitarian Response Plan was provided (leaving $105,115,148 in unmet requirements). In 2017, 65 per cent of the total requirement was provided (leaving $52,902,703 in unmet requirements). See https://fts.unocha.org/appeals/533/summary.

[27] The 2018 Humanitarian Response Plan seeks $313 million in order to target 940,000 people in Libya. This is a substantial increase in funding required, compared to the 2017 requirement of $151 million. See https://fts.unocha.org/appeals/533/summary.

Moreover, it would assist municipalities hosting internally displaced persons and those where safe, dignified and voluntary return based on the respect of human rights is possible, and would ensure that contingency measures are put in place in order to establish programmes and deploy rapid assistance at the earliest opportunity to respond to any potential new or renewed displacement. It would also allow the Government of Libya to better inform the international community about how to best provide tangible support to the Government. Mapping of the locations of internally displaced persons, and data on such persons, across Libya and especially in the larger cities such as Tripoli, Misrata and Benghazi will be important to ensure that all actors are aware of the areas and specific needs requiring coordinated assistance, with a view towards stabilization within the context of durable solutions.

65. The situation of many of the internally displaced persons across Libya is dire and should no longer be downplayed by the Government of Libya. If the situation of internal displacement is left unacknowledged and unaddressed, it has the potential to lead to a cementation of the protracted displacement. Many internally displaced persons, the vast majority of whom are women and children, are traumatized by the violence that prompted them to flee and that cost them their homes, their livelihoods and their family members. An alarming number of displaced Libyans suffer from conflict-related psychological traumas and require urgent psychosocial support.

66. Although many internally displaced persons have returned to their homes, concerns remain that must be addressed regarding the conditions to which they are returning, such as lack of safety and security, lack of access to services, discrimination and a low standard of living. Return must only take place voluntarily, on an informed basis, in conditions of security and dignity and with appropriate support in place.

67. It was frequently emphasized in meetings during the visit that internal displacement in Libya has in some cases also been a precursor to further cross-border movement, due to a lack of protection, support and assistance. Several of the internally displaced persons that the Special Rapporteur spoke to expressed desperation at the fact that they experienced discrimination and fear of persecution on a daily basis and that the only choice they saw in order to feel safe and to support the livelihoods of their families was to seek protection outside of the country by using the Central Mediterranean migration routes to Europe. Civil society groups and media sources are increasingly reporting that more and more Libyans are joining mixed migratory movements to Europe. The Office of the United Nations High Commissioner for Refugees (UNHCR) reports that in 2017, 1,243 Libyan nationals arrived in Italy by sea and that the number of Libyans reaching Italian shores had increased by 39 per cent compared to 2016. In 2017, Libyans lodged 485 asylum applications in Italy (citing insecurity, generalized violence and personal threats). The label "economic migrant" is too often and too quickly applied, and yet does not take into account the unique circumstances of fear, threats of persecution and lack of options facing internally displaced persons who decide to leave Libya. While it is acknowledged that many people turn to migrant routes for economic and other reasons, it must also be recognized that many are at high risk of persecution due to perceived political and other group affiliations and face legitimate protection issues. A distinction must be recognized for those whose movement is based on a well-founded fear for their lives, and of their freedom being at risk, which leads them to flee their homes.

68. Moreover, the Special Rapporteur recalls the responsibility of armed groups, in areas under their control, to protect civilians, including internally displaced persons, in accordance with international humanitarian and human rights law and standards. The conduct of hostilities by all parties in Libya has been, and to some extent continues to be, characterized by widespread disregard for the rules of international humanitarian law and the obligation to protect civilians. Fighting and excessive use of force has been, and remains, particularly severe in the south and east of Libya, as well as in Tawergha. Armed groups must take responsibility for the protection of civilian populations to ensure their security and their access to humanitarian assistance. They should allow and facilitate rapid, safe and unhindered access for humanitarian actors

to conduct their work in line with the four core humanitarian principles (namely humanity, neutrality, impartiality and independence) and ensure freedom of movement for the entire Libyan population.

B. Recommendations

69. **The Special Rapporteur makes the following recommendations to the Government of Libya:**

1. Institutional and policy frameworks

(a) **Prioritize the creation of a national road map to establish a common strategy, and help guide and ensure a coordinated response for appropriate and effective responses to internal displacement. The road map should be formulated in accordance with the Guiding Principles on Internal Displacement, and be implemented across all relevant ministries and in cooperation with United Nations and other national and international partners;**

(b) **Ensure that the road map clarifies roles and assigns institutional responsibilities, and improves coordination across national, municipal and local actors; this would involve strengthening awareness-raising activities in order to promote knowledge of the road map and to encourage increased communication among officials, ministries, departments, municipal authorities and internally displaced persons;**

(c) **Ensure that the Minister of State for Displaced Persons' Affairs is able to function effectively as an institutional focal point for internal displacement with an appropriate mandate (defined in the road map), an appropriate budget and a secretariat — this should include a review of the role and function of the Minister to increase his or her coordination role; and ensure a systematic approach to addressing situations of internal displacement;**

(d) **Initiate the process of reviewing national legislation in Libya, with the direct support of international actors experienced in legal reviews, to study how national-level policies and existing laws compare to international standards, to the Guiding Principles on Internal Displacement and to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention).[28] Such a review may help to remove legal obstacles for internally displaced persons, and to identify gaps and legislation in need of amendment, including the ratification of the Kampala Convention;**

(e) **Ensure appropriate budgets to address internal displacement, based on legal and policy frameworks to implement policy measures and programme responses to the fullest extent, including at the local levels;**

(f) **Publicly acknowledge all groups of internally displaced persons and commit to putting in place measures for the protection of and assistance to all who are affected by internal displacement.**

2. Critical humanitarian and human rights responses

(a) **Support joint efforts with humanitarian and development partners to implement a displacement profiling exercise in Libya in order to build a comprehensive picture of the internal displacement situation and identify trends, patterns and risk profiles, and to understand the location, needs, protection concerns and future preferences of internally displaced persons in comparison with the needs of the host communities;**

[28] During the mission, the Minister of Justice requested that such an assessment and comparison study be conducted, specifically in relation to transitional justice.

(b) Actively support the United Nations and other humanitarian and development actors, including non-governmental organizations, so that they can gain access to all locations and internally displaced populations, as security allows. Bureaucratic and other restrictions on full and rapid access to internally displaced persons are a major impediment to their work and effectiveness and should be lifted; and the Special Rapporteur urges increased positive facilitation by the Government of Libya with regard to the issuance of visas for humanitarian staff;

(c) Ensure that all essential civil documentation required in order to gain access to assistance and services, and to register to vote for elections, can be issued in places of displacement, with no undue cost or administrative or other barriers; and that there is access to banks and financial services in places of displacement;

(d) Ensure that the prohibition of arbitrary forced evictions of internally displaced persons is respected by all actors;

(e) Take into account the situation and needs of host families and communities that provide vital support and assistance to internally displaced persons in order to ensure that assistance reaches the host communities as necessary, and to prevent, to the fullest extent possible, tensions from emerging between the displaced communities and the host communities;

(f) Put in place appropriate mechanisms to reach internally displaced persons living in urban settings who may lack information, essential service provision and urgent protection;

(g) As all internally displaced persons must be treated equally, including with regard to their access to safety and assistance, on the basis of their rights, needs and situations and without discrimination on the grounds of their ethnic identity, their perceived political or group affiliations, their place of origin or any other factor, the Government should put in place policies that protect internally displaced persons, as opposed to treating them as a potential threat based on perceived terrorist group affiliations;

(h) Establish consultative and participatory mechanisms and forums to ensure that internally displaced persons, including women and other vulnerable groups, are fully involved in decisions affecting them;

(i) While legitimate security concerns require responses, these must be temporary, have a legal basis and be non-discriminatory in accordance with international humanitarian and human rights law. Internally displaced persons must not be subjected to arbitrary arrests, detention or other violations of their human rights, and ill-treatment of those detained is unacceptable. Any arrests must have legal justification and follow due process in accordance with international standards;

(j) Take all steps necessary to protect women, including vulnerable displaced women, from all forms of violation of their human rights. Strengthen prevention and response measures on violence against women and girls and prosecute those responsible for violations; give roles to women in camp management; ensure that water collection and bathing facilities are safe; and put in place rigorous protection monitoring systems and complaint and feedback mechanisms;

(k) Support the expansion of human rights and civilian protection monitoring mechanisms, with a view to facilitating and supporting independent and transparent investigations into possible violations of international humanitarian and human rights law committed by armed groups and any other actors accused of crimes; and establish measures leading to an effective transitional justice process for victims and a peacebuilding process, ensuring that internally displaced persons are fully involved in such initiatives and that they are carried out in strict accordance with international standards;

(l) Enhance protection and support, including but not limited to medical and psychosocial support, to displaced victims of torture and displaced children, particularly traumatized children and those who have been forcibly recruited by

armed groups, and refrain from any unjustified detention of children and from detaining children in adult facilities;

(m) As education must be considered as a high priority for internally displaced children, take all steps necessary to provide functioning education facilities at all levels and in safe and accessible locations;

(n) Ensure the systematic and disaggregated collection of information on missing and deceased persons, including the development of a database, in order to open cases with a view to identifying the whereabouts of missing family members, including children.

3. Durable solutions

(a) All measures necessary should be taken to ensure that all durable solution options are available to internally displaced persons, including voluntary return in safety and dignity, local integration or settlement elsewhere in the country. This should be a free and informed decision made by the internally displaced persons themselves;

(b) Ensure that any return of internally displaced persons to their places of origin takes place voluntarily, with information provided on the conditions in the intended place of return, and is carried out in conditions of security and dignity, and with services in place such as education and health care. Community-based interventions to improve livelihood opportunities should be supported, and the Government of Libya has a responsibility to assist with housing and with the recovery and restitution of property. Community reconciliation and social cohesion projects should be established where necessary. This may require trained units, police and other public officials, in order to avoid problems and tensions emerging;

(c) The Special Rapporteur considers that further joint efforts are still necessary to overcome obstacles to durable solutions, and calls upon all parties to approach durable solutions from a humanitarian and development perspective and to take concrete actions towards improving resilience and recovery strategies. Particular attention should be paid to internally displaced persons with specific needs, such as women, children, older persons, and persons with disabilities;

(d) Many thousands of internally displaced persons are living in territories controlled by armed groups or by self-proclaimed authorities, with little or no access to humanitarian assistance. Despite the security issues, it is nevertheless imperative to take measures to improve regular and consistent outreach and access by humanitarian actors, with appropriate security in place, including in areas not held by the Government of Libya;

(e) Armed groups must take responsibility for the protection of civilian populations, including internally displaced persons, who fall under their authority, and take all measures to ensure their security and that humanitarian assistance is provided to the fullest extent possible.[29] Armed groups must allow and facilitate the rapid, safe and unimpeded access of humanitarian workers and ensure the freedom of movement of the civilian population.

70. The Special Rapporteur makes the following recommendations to the United Nations, the international community and donors:

(a) Ensure that assistance and protection for internally displaced persons in Libya is a high priority on the international agenda. The capacity of the Government of Libya to meet the needs of such persons is limited, and United Nations agencies and civil society are constrained by a lack of international support and resources to deal with the situation and by the lack of a comprehensive response strategy on internal displacement. While Libya is considered an upper middle-income country with vast oil resources, the cost of the political conflict, the security conditions and the

[29] International humanitarian law also applies to non-State armed groups.

blockaded oil infrastructure have taken a severe toll on the economy and on the response to internal displacement;

(b) The funding shortfall for international humanitarian assistance is seriously hampering the ability of United Nations specialized agencies and international civil society organizations to fulfil their humanitarian and protection functions. The international community is urged to provide adequate additional funds and other resources required, as well as to guarantee funding for durable solutions in the longer term;

(c) Respond rapidly to requests for humanitarian funding across humanitarian sectors to ensure that the Libya Humanitarian Response Plan for 2018 is fully funded and has a balanced approach that fully includes internally displaced persons, and that financial pledges are delivered rapidly; ensure a strong focus on vulnerable groups of internally displaced persons in the implementation of the Humanitarian Response Plan; and work more closely with local actors and local non-governmental organizations, who potentially have a wider reach;

(d) Support initiatives that address the priority needs of internally displaced persons, including progress towards durable solutions, for example by sponsoring exchanges of experiences with countries with similar displacement situations or by seconding technical experts on durable solutions to the Government of Libya;

(e) Provide expert guidance, training, tools and resources to assist in building national capacity and expertise among national authorities and civil society partners in order to draft and implement the road map;

(f) Ensure the timely and rapid engagement of international development partners to assist the Government of Libya across all sectors in the implementation of measures to support internally displaced persons so that they can achieve durable solutions;

(g) Support measures in the field of transitional justice and community reconciliation initiatives to ensure justice, restitution and compensation for internally displaced persons, and the resolution of incidents of human rights violations that caused internal displacement and those that occur during internal displacement, and consider adopting specific measures to address ethnic and tribal tensions.

United Nations A/HRC/38/39/Add.3

General Assembly

Distr.: General
9 May 2018
English
Original: French

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons on her mission to the Niger

Note by the Secretariat

The Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, paid an official visit to the Niger from 18 to 24 March 2018, at the invitation of the Government and pursuant to her mandate set out in resolution 32/11 of the Human Rights Council.

The Niger is facing a humanitarian upheaval and a growing internal displacement crisis in the vicinity of its borders with Mali and Nigeria. While the Government of the Niger has responded to the extent that its limited resources and capacity permit, more concerted efforts are needed at the institutional and legislative levels. The Special Rapporteur encourages the Government of the Niger to draw lessons from the situation in Diffa and urgently to develop a strategy for the comprehensive protection of and assistance to internally displaced persons, in particular in Tillabéri. The Special Rapporteur encourages the international community to work together with the Niger in a dependable manner with a view to resolving the crisis of internal displacement in the country.

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Report of the Special Rapporteur on the human rights of internally displaced persons on her mission to the Niger*

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* Circulated in the language of submission and English only.

I. Introduction

1. In accordance with the mandate entrusted to her by the Human Rights Council in its resolution 32/11, and at the invitation of the Government of the Niger, the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, undertook an official visit to the Niger from 19 to 24 March 2018 to investigate the situation of internally displaced persons in the country.

2. The main objectives of the visit were to collect first-hand information on the situation of internally displaced persons, the difficulties encountered in protecting them, and the challenges and opportunities arising in finding sustainable solutions. The Special Rapporteur also wished to engage in a dialogue with the representatives of the Government and local authorities on the legislative and institutional measures that have been put in place to respond to internal displacement.

3. During her visit, the Special Rapporteur had meetings with the Secretary-General of the Ministry of Justice and Human Rights; the Secretary-General of the Ministry of Internal Affairs, Public Security, Decentralization and Customary and Religious Affairs; the Minister of Humanitarian Action and Disaster Management; officials of the Directorate-General for Civil Registration, Migration and Refugees; the steering committee for the drafting of a bill on internally displaced persons; the National Human Rights Commission; United Nations agencies and non-governmental organizations. She also had meetings with the local authorities in the regions of Diffa and Tillabéri, including representatives of regional directorates, the governors of those two regions, and the prefects and mayors of Banibangou and Ayorou in Tillabéri region and representatives of the defence and security forces deployed in that region. She also had meetings with recently displaced persons in Tillabéri region and visited internal displacement sites in Diffa region, in order to gain a better understanding of their circumstances, their specific needs, their concerns relating to protection and their expectations. She regrets not having been able to visit other internal displacement sites in the regions of Tillabéri and Diffa owing to security considerations at the time of the visit.

4. The Special Rapporteur expresses her sincere gratitude to the Government of the Niger and to local authorities for their full cooperation both before and during the visit. She looks forward to the continuation of a fruitful dialogue with the Government and other stakeholders on the implementation of the recommendations set out in the present report. She would also like to thank all her interlocutors, in particular the internally displaced persons themselves, who were kind enough to share their experiences, needs and aspirations for the future.

5. The Special Rapporteur also wishes to thank the Resident Coordinator and Humanitarian Coordinator for the United Nations in the Niger, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Office of the United Nations High Commissioner for Refugees (UNHCR), who spared no effort in making the necessary organizational and material preparations for her visit and ensuring its smooth conduct. She would also like to thank the country team for humanitarian action and the members of the Working Group on Protection (Protection Cluster) for their cooperation and sharing of information during her visit.

6. In the present report, the Special Rapporteur focuses on the situation of internally displaced persons in Diffa region, in the south-east of the Niger, and the latest situation in Tillabéri region, in the west along the border with Mali.

II. Background

7. For several decades, the situation in the Niger has been characterized by multiple instances of vulnerability that have given rise to substantial humanitarian needs. Ranked 187th out of 188 countries on the human development index of the United Nations Development Programme (UNDP) in 2016, with the highest fertility rate in the world (7.6

children per woman), the Niger is faced with various problems: malnutrition, limited access to education and health care, epidemics, food insecurity and natural disasters.

8. A number of security and humanitarian crises have also led to population movements, including the current crisis of displacements across its borders with Mali and Nigeria. Before the first attacks by the non-State armed group Boko Haram within the territory of the Niger in February 2015, in the Diffa region, the Niger had not experienced conflict-related internal displacement.

9. Prior to the current conflict, there was already an environmental crisis in the Diffa region, with extreme aridity in the south-east of the country, two thirds of which is affected by desertification, an issue which is exacerbating the existing pressures on food security. The drying up of Lake Chad, which has lost 90 per cent of the surface area that it covered in 1960, has also reduced earnings from fishing and access to water.

10. Added to these environmental data are local demographic data that reflect a further element of vulnerability. Indeed, Diffa, together with Zinder, is the region of the Niger with the fastest population growth, at a rate of 4.7 per cent, which means that the current population of Diffa will double about every 15 years.

11. The Niger has 85,847 displaced children, more than 66 per cent of the country's internally displaced population.[1] Over the course of its history, however, Diffa has suffered from a lack of infrastructure and qualified teaching staff, and the situation has been further exacerbated by the recent security issues and the influx of displaced populations.

12. More recently, the Niger, already weakened by the crisis in the Lake Chad basin and the large movements of people crossing the frontier area with Mali, felt the direct effects of the crisis in Mali in the provinces of Tillabéri and Tahoua. A region irrigated by the Niger river, Tillabéri is particularly vulnerable to drought, flooding and epidemics and has suffered the consequences of the crisis in Mali, with the influx of refugees and the growing movements of internally displaced persons placing further strains on an already fragile economy. Road infrastructure problems are exacerbating the isolation of the region and making the delivery of commercial and humanitarian supplies more difficult to plan. Lastly, the region is affected by the process of desertification, which is further undermining agricultural production and food security.

13. Over the past few months the defence and security forces have been imposing very strict security measures in the Tillabéri region as they wage an armed struggle against non-State groups mounting regular attacks in the area. The civilian population, caught in a stranglehold in this confrontation, suffers most from these measures and the effects of the state of emergency in force since March 2017. The impact is also felt by the humanitarian community, whose access to this conflict zone is restricted for security reasons. With the imminent deployment of regional forces of the Group of Five for the Sahel (Sahel G-5) on both sides of the frontier, the humanitarian impact on civilian populations is cause for even greater concern, as both sides are likely to view them as being allied to the enemy that they are fighting.

14. In a region where access to public services, including primary health care, is uncertain and where there are risks of epidemics, an even more complicated scenario is likely to emerge in the coming months for the most vulnerable civilian populations, caught up in a military operation that could cause further displacement.

A. Causes of internal displacement

15. The ongoing state of insecurity both within and between the neighbouring countries of the Lake Chad basin, linked to attacks by Boko Haram, has led to forced displacements of populations, both cross-border and internal. In the Niger, these displacements are mostly concentrated in the Diffa region. On 6 February 2015, the towns of Bosso and Diffa were

[1] Regional Directorate of Civil Registration and Refugees, October 2017, covering 97 sites. Cited in *Niger: Humanitarian Situation Report*, UNICEF, November 2017.

subjected to heavy attacks by Boko Haram, causing a first wave of internal displacement. On 20 February 2015, the village of Karamga, on the islands of Lake Chad, was attacked by Boko Haram, which killed soldiers from the Niger and caused population displacements. Following these events, on 28 April 2015, the Governor of Diffa gave orders that people from those islands of Lake Chad belonging to the Niger should be evacuated to the mainland within 72 hours. According to official government figures, some 30,000 people reached the mainland under difficult conditions. On 17 June 2015, two villages bordering the Komadougou river in the municipality of Gueskerou were attacked simultaneously by Boko Haram fighters, resulting in the death of 29 persons in Lamana and 11 persons in Ngoumao and displacing more than 8,000 people, who reportedly found refuge in the Assaga site. In November and December 2015, the populations of several villages in the municipality of Chétimari were moved to the Boudouri, Gamari and N'Gourtoua sites, after raids followed by looting and burning. In 2016, an attack launched on Yébi in May and then another in June on Bosso, which was being attacked for the second time, triggered the mass displacement of persons to the Garin Wanzam site. In June and July 2017, two other major attacks were launched on the camp for internally displaced persons in Kablewa and on N'Galewa village (2 killed, 11 injured, 39 women and children abducted, and more than 16,000 persons displaced).

16. The security situation in the regions of Tillabéri and Tahoua gets worse every day. At the end of January 2018, for the first time, people were displaced in the Tillabéri region, following an attack that resulted in the death of one civilian and the abduction of two others. These movements of people are preventive measures taken in the face of threats from non-State armed groups operating in the border areas.

B. Current situation of internally displaced persons

17. On 31 October 2017, according to official government figures, in the Diffa region there were 129,015 internally displaced persons, spread across 149 sites,[2] mostly along national road 1 connecting the capital Niamey to Nguigmi. According to a study conducted in November 2017,[3] in 93 per cent of the 121 sites for which data were provided, the majority of internally displaced persons had spent more than one year in the site where they were residing. According to the same study, in 55 per cent of the sites, at least some of the displaced persons present had been displaced prior to their arrival at the site in which they were currently residing, which demonstrates how much movement there is in this traditionally highly mobile region. The fact that there are so many displacements suggests that people tended to move first to a place relatively close to their home village before moving to a new and more distant location if the living or security conditions were not satisfactory. Added to that, some internally displaced persons also shuttle back and forth to their villages of origin. Thus, in January and February 2018, 1,257 people were reported to have left the displacement sites in the Gueskerou, Kablewa, Bosso, Toumour and Nguigmi municipalities.

18. These movements, stemming from the difficult living conditions for displaced persons in the sites, are difficult to control. This situation is all the more troubling given that access to the islands of Lake Chad is officially prohibited. Furthermore, by returning to the islands, these people are deprived of access to immunization, which creates a risk of epidemics. Despite a recent overall reduction in the number of security incidents, the month of January 2018 has seen a resurgence of Boko Haram attacks in the Diffa region. This ever-present threat means that the estimated 130,000 internally displaced persons in the area are likely to remain in a situation of protracted displacement.

19. The situation in the Tillabéri region is very volatile and rapidly changing, making it difficult to estimate the number of internally displaced persons there. While in the Diffa

[2] Regional Directorate of Civil Registration and Refugees, October 2017, covering 97 sites. Cited in Niger: Humanitarian Situation Report, UNICEF, November 2017.

[3] REACH initiative and Diffa Working Group on Protection: Final evaluation of the situation regarding the protection of displaced populations in Diffa region, November 2017.

region the Government is collecting data on the number of internally displaced persons through the Regional Directorate of Civil Registration and Refugees, at the time of the Special Rapporteur's visit a system of this kind had not yet been put in place for the Tillabéri region. At the time of drafting of the present report, according to reports provided in March 2018 by the Niger Association for the Treatment of Delinquency and Crime Prevention (ANTD), a local non-governmental organization, over 8,000 people had been displaced across five sites in the departments of Banibangou and Ayorou. Among the recently displaced persons in Ayorou department, 40 per cent are children aged 0–13, and more than 50 per cent are women and girls.

III. Framework for the protection of and assistance to internally displaced persons

20. In order to tackle the situation of internally displaced persons, the authorities of the Niger and the country's humanitarian agencies have implemented measures to provide a more coordinated and holistic response. The Special Rapporteur encourages the continuation of such efforts.

A. Responses by the authorities of the Niger

Institutional framework

21. Several government institutions have been assigned different roles to respond to the needs and ensure the protection of internally displaced persons, both at the national and regional levels, and their responses are commensurate with their limited resources and capacities. Following the regional dialogue on protection, held in 2016, and the adoption of the Abuja Action Statement,[4] the Government of the Niger committed itself, among other things, to developing a plan of action on protection in the Lake Chad region, with the support of UNHCR.

22. The Ministry of Humanitarian Action and Disaster Management, established in 2016 on the basis of the former Humanitarian Coordination Unit, is one of the institutions entrusted with responding to the situation of internally displaced persons. With its regional counterparts, it is at the forefront of the Government's response to the humanitarian crisis. This Ministry's responsibilities include: coordinating responses at the national level with the other ministries and bodies involved in preparing contingency plans and action plans; ensuring cross-sectoral coordination with national institutions (ministries, regions and subregions) and agencies involved in humanitarian action and disaster management; conducting surveys and assessments to diagnose humanitarian emergencies and disasters, assess needs and provide preliminary responses; developing and implementing projects to support the reception and reintegration of returnees and repatriated persons, internally displaced persons and host populations; and, in conjunction with the relevant ministries, managing the camps for refugees and internally displaced persons in the Niger.

23. The Directorate-General of Civil Registration, Migration and Refugees, under the authority of the Ministry of Internal Affairs, Public Security, Decentralization and Customary and Religious Affairs, is responsible for the civil registration of internally displaced persons and refugees, for the collection of data on such persons and, to the extent possible, for the issuance of documents. This Directorate has a representative in the Diffa region who works through the Regional Directorate of Civil Registration and Refugees and prepares and issues quarterly updates on the number of refugees, Niger nationals repatriated from Nigeria and internally displaced persons in the Diffa region.

24. At the national and regional levels, the Directorate for the Advancement of Women and Protection of Children, which comes under the Ministry of that name, is involved in the response to the specific needs of internally displaced women and children. Its regional

[4] https://data2.unhcr.org/en/documents/download/49363.

counterpart in the Diffa region heads the Working Group on Protection and the working groups that report to it on sexual and gender-based violence and child protection. This regional directorate is responsible for conducting awareness-raising campaigns, identifying cases of gender-based violence and violations of the rights of the child, and reporting such cases to partners for them to make the necessary response.

25. The National Human Rights Commission of the Niger, a national human rights institution accredited with "A" status, has been able, despite severe financial constraints, to set up regional offices in Diffa and Tillabéri as a matter of priority, to allow for local responses to the human rights challenges posed by internal displacement. The Commission has an important role to play in the promotion and protection of the rights of internally displaced persons, dealing with complaints and investigations, providing training on international instruments that deal with the protection of the rights of displaced persons and drafting a law on the protection of and assistance to internally displaced persons. Having agreed to the establishment of this Commission, the Niger must ensure that it receives lasting support through the provision of the necessary resources and means to accomplish its objectives.

26. The Governor of Diffa, the governmental authority in the region, has established thematic working groups, modelled on the cluster approach to humanitarian assistance of the United Nations system. These thematic groups are led by the Government's regional counterparts.

27. According to figures from the 2018 humanitarian response plan, coordinated by the United Nations, in the Niger, 2.3 million people were found to be vulnerable and in need of humanitarian assistance; of these, 1.8 million need to be placed under the responsibility of humanitarian agencies. It has been calculated that catering to the needs of the remaining individuals would entail a cost to the Government of approximately 142 billion CFA francs. The Niger has already set aside 29 billion CFA francs for this purpose in its 2018 budget and is counting on donors to fund the balance.

28. Despite the commitment of the central Government to tackling the problem of internal displacement, the decentralized system of governance means that responsibility for the response to this problem rests with the regional directorates. With only one or two persons at their head, however, these bodies lack the financial and human resources needed to ensure an adequate and effective response, creating a disconnect between national and local levels. The Special Rapporteur encourages the Government of the Niger to allocate a larger portion of its annual budget to regional capacity-building.

29. Despite an apparently clear division of institutional responsibilities relating to internal displacement, the proliferation of these institutions and the failure by the Ministry to ensure firm leadership of humanitarian action and disaster management mean that the responses to internal displacement are somewhat fragmented. The Special Rapporteur, in line with the recommendations made by her predecessor on governance structures,[5] encourages the Government to designate a single focal point for the response to internal displacement.

Legislative framework

30. The key elements of a national response that adequately and effectively deals with the issue of internal displacement are lacking in the Niger because the country does not have a legislative framework consistent with international standards, including the 1998 Guiding Principles on Internal Displacement and the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (hereinafter referred to as the Kampala Convention). Accordingly, the Government is operating in a legal vacuum. A legislative framework is therefore urgently required to incorporate the rights of internally displaced persons and the obligations of the national authorities in domestic law, and to clarify the roles and responsibilities of the various agencies and ensure coordination

[5] See A/70/334.

between these bodies. Budgetary allocations must also be drawn up and guaranteed for the conduct of humanitarian and development initiatives.

31. In this spirit, the Special Rapporteur welcomes the ratification of the Kampala Convention by the Niger in 2012. She recalls that article 3.2 of the Convention requires States parties to incorporate its provisions into their domestic law. At the time of the visit of the Special Rapporteur, there was still no such framework. Following a workshop on the laws and policies relating to internal displacement organized in December 2017 by the Ministry of Humanitarian Action and Disaster Management, with support from UNHCR, an interministerial steering committee was set up to draft a bill for the implementation of the Kampala Convention. The Special Rapporteur strongly commends these efforts, while urging the Government to furnish the committee with the necessary means to perform its mission and to ensure the prompt adoption of the bill by parliament.

32. In the light of the multiple causes of displacement in the Niger, including recurring natural disasters, the Special Rapporteur encourages the steering committee to work on a bill that would cover all the causes and all phases of displacement, from prevention to durable solutions. She welcomes the planned participatory approach and stresses that internally displaced persons must be consulted in all initiatives relating to their situation.

33. During her mission, the Special Rapporteur was often told that the Niger lacked the experience to manage humanitarian crises and displacement on such a scale. The experience of Diffa since 2015 should, however, furnish the Government with guidance on the measures to be taken in response to the Tillabéri crisis, where the first population movements occurred at the end of January 2018, despite the fact that the Government has not yet established a comprehensive strategy for the protection of internally displaced persons and provision of assistance to meet their specific needs. This lack of governmental vision also leaves humanitarian workers sitting on their hands, owing to the lack of an operational framework. Many internally displaced persons have expressed the wish that the authorities should go themselves to see the situation on the ground and the needs of affected communities, including in Tillabéri. In some areas, however, the local people seem to be terrorized by armed attacks and fear visits by municipal authorities lest they be associated with these authorities and, in retaliation, become targeted to an even greater extent by non-State armed groups. The Special Rapporteur emphasizes the essential need for the Government to develop a clear strategy for the provision of protection and assistance to internally displaced persons, based on their specific needs, to expedite its responses, to allocate additional resources and to devote more attention to this constantly evolving crisis. A multidisciplinary and multi-organizational team could be established to support the Government and provide technical assistance with a view to ensuring an appropriate response to the displacement situation in Tillabéri.

B. Response of the international community

34. Without any question, the Niger has neither the capacity nor the resources to manage the crisis of internal displacement on its own. The international community has an essential role to play in this regard.

35. United Nations humanitarian arrangements were put in place with the launch of clusters in Diffa in 2010 to respond to the crisis caused by the floods hitting the region. While welcoming the efforts and the significant achievements of the humanitarian country team, the Special Rapporteur emphasizes the essential need, three years after the start of the crisis, for the urgent adoption of a protection strategy. This also requires more sustained efforts to integrate issues of internal displacement and protection across all sectors, including those of food security, nutrition, health, education, shelter and water, hygiene and sanitation. In that context, most of the existing clusters should be strengthened immediately, including by ensuring that the cluster coordinators devote at least half of their time to the clusters, in order to ensure adequate assistance. The Working Group on Protection should continue to be strengthened, given the significant progress that has been made since the appointment of a dedicated coordinator in the working group, including in the areas of information collection, and the analysis and definition of objectives and strategies.

36. At this critical juncture, the Special Rapporteur calls upon the international community and donors to increase their support to the Niger, since it is facing a worsening humanitarian and displacement crisis owing, among other factors, to the constantly worsening security situation, the emergence of multiple crises in Diffa, Tillabéri and Tahoua, and overlapping chronic and acute vulnerabilities. According to the 2018 humanitarian response plan, the number of people in need has risen to 2.3 million, an increase of 400,000 persons compared with the humanitarian response plan for 2017. The needs analysis shows the persistence of five major crises: food insecurity, malnutrition, epidemics, floods and population movements. Nutrition indicators have deteriorated significantly, with more than 1.7 million people in need, 250,000 more than in 2017. In addition, now that the Working Group on Protection has extended its activities across the entire country, it is encountering needs three times greater than in 2017, when only Diffa region was covered. In 2017, while funding was provided for some 80 per cent of the estimated needs of the humanitarian response plan, funding for protection was only at the level of 18 per cent. This significant lack of funding is hindering the efforts of protection agencies and should be remedied as a matter of priority. The 2018 humanitarian response plan needs $338 million, including $163 million for Diffa region. The Special Rapporteur encourages the international community and donors to mobilize their resources and provide generous support for this plan. The Niger must not be forgotten, and the international community cannot turn its back on the situations of internal displacement, whether these are new or the continuation of existing situations, in Tillabéri and Diffa.

37. Thus, while is it essential to step up the response in order to ensure short-term assistance, resources should also be provided to address the longer-term challenges of finding lasting solutions for internally displaced persons beyond the emergency response phase.

IV. Main problems affecting internally displaced persons

A. Living conditions and access to basic services

38. During her visit, the Special Rapporteur was able to speak with internally displaced persons. In the Tillabéri region, she had the opportunity to meet representatives of recently displaced persons to ascertain their principal needs and concerns. Their main grievances related to access to basic necessities, including food, adequate shelter, health care and education. Since Inatès market, which is very close to the border with Mali, has been shut down for security reasons, displaced persons must make the arduous journey to Ayorou market, lying 85 km from Inatès. There has been a unanimous and urgent plea for food and medical assistance.

39. The Special Rapporteur also visited displacement sites in Diffa region, where internally displaced persons and host communities are struggling to meet their basic needs, including health care and education. During her visit to the sites, one of the main challenges communicated to the Special Rapporteur was related to food and nutrition. Some internally displaced persons have reported hunger due to limited food distribution. Many among them have been sharing their meals with their families and depending on the support of their host communities. Some families have also been counting on school canteens to feed their children, but with the attacks by Boko Haram against schools and their resulting closures, and because teachers have been leaving and the schools are struggling to cope, they have been unable to provide the food assistance needed.

40. The state of emergency declared in 2015 in the region of Diffa, and extended several times, has led to the strengthening of the military presence by the Niger army and the multinational task force, composed of military units from Benin, Cameroon, Chad, the Niger and Nigeria, whose mandate is to put an end to the conflict fomented by Boko Haram. In addition, the protracted conflict and the measures taken under the state of emergency have constrained livelihood activities, including fishing, the marketing of fish and the cultivation of bell peppers, and also the acquisition of essential fuel and fertilizer for agricultural production. The state of emergency has led to restrictions on the freedom of

movement of persons, as entire areas have been militarized and declared no-go areas for civilians. These measures aimed at combating non-State armed groups have had a devastating effect on the civilian population in Diffa region and on its livelihood.

41. The Special Rapporteur emphasizes that these measures, launched in Diffa under the state of emergency, insofar as they have a disproportionate impact on the well-being of the population, are detrimental to the economic and social rights of the people of the region. The Special Rapporteur urges the Government of the Niger to apply good judgment in the application of such measures, with due regard to the principles of necessity and proportionality. In addition, such measures raise issues under international humanitarian law applicable to the non-international armed conflict in Diffa between government forces and non-State armed groups, including the customary principle according to which "[t]he use of starvation of the civilian population as a method of warfare is prohibited",[6] and that "[i]t is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works".[7]

42. In Diffa and Tillabéri regions, access to medical care is severely restricted and the medical infrastructure must immediately be improved. The mobile clinics cannot operate at night because of security considerations and the curfew in place in these two regions, with serious consequences for the most vulnerable internally displaced persons, such as pregnant women. Many of the displaced, in particular women and children, are in need of urgent medical care, and some are severely traumatized by the violence that caused them to flee or the violations from which they have subsequently suffered. The population is in urgent need of psychosocial care, which is largely non-existent. In addition, overcrowding and the lack of hygiene in the sites, especially in urban areas, could contribute to the emergence of epidemics.

43. Three years after the initial displacements in Diffa region, displaced persons are often still living in emergency shelters. The combination of these rudimentary living conditions and temperatures approaching 45 degrees has resulted in several fires. Between December 2016 and March 2017, more than a dozen fires were recorded in displacement sites in the Diffa region. The Special Rapporteur encourages all stakeholders to continue conducting awareness-raising campaigns on the risks associated with the use of gas and fire in the displacement sites.

B. Data collection, civil registration and identity documents

44. The Regional Directorate of Civil Registration and Refugees has carried out a census of the displaced population in Diffa (see para. 17 above). It must be noted, however, that there are some major obstacles to data collection in Diffa region: the high rate of mobility, a significant lack of documentation and the difficulty of distinguishing between internally displaced persons and refugees, owing to their cultural and ethnic similarities and the fact that they are often to be found in the same sites. Data collection is also complicated by an additional obstacle, the lack of access to more remote areas. For security reasons, humanitarian workers only visit the sites along national road 1. Given the dispersal of internally displaced persons, however, their numbers could be much greater. Some areas, such as the islands of Lake Chad, have been inaccessible since 2015 and are heavily militarized. Thus, the number of internally displaced persons put forward by the authorities could exclude some internally displaced persons located in areas beyond the reach of humanitarian assistance. Accordingly, the Special Rapporteur recommends the adoption of a clearly defined methodology for improved data collection.

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[6] J.-M. Henckaerts and L. Doswald-Beck, *Customary International Humanitarian Law*, vol. 1: *Rules*, International Committee of the Red Cross, Cambridge University Press, Cambridge, Rule 53, p. 186, 2006.

[7] Article 14, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II, 1977).

45. According to the reports on a protection monitoring exercise dating from March 2018, carried out by the local non-governmental organization ANTD, over 8,000 people had been internally displaced in the departments of Banibangou and Ayorou. As the situation in Tillabéri is evolving extremely fast, this figure may already be out of date at the time of the writing of the present report.

46. The Special Rapporteur observes that work has already started on some projects designed to collect better quality data for the purpose of providing a more adequate response, and the projects are already at fairly advanced stages. The Government, supported by UNHCR, is currently conducting a biometric registration exercise in Diffa region, initiated in September–October 2017 and aimed at identifying and registering refugees and internally displaced persons. A draft administrative census of humanitarian development is also planned for September 2018, to be conducted over a 24-month period. This project has been launched by the Government and UNHCR and it will draw on the expertise of a Pakistani registration agency, the National Database and Registration Authority (NADRA), and collect data and statistics on the affected population in Diffa region to ensure the better planning of development activities and provision of an effective humanitarian response. The project is aimed at establishing a viable system that includes refugees and internally displaced persons; it could help to minimize the risk of statelessness, in particular in Diffa region, where 82 per cent of the population have no identity documents or civil status papers, and to enable their freedom of movement as they often have to submit identity documents to pass through checkpoints. The project was agreed upon in April 2017 and formally approved by the Minister of Internal Affairs, Public Security, Decentralization and Customary and Religious Affairs. It will cost an estimated 25 million euros and will be funded by the World Bank. In the context of these various projects, the Special Rapporteur wishes to emphasize that internally displaced persons are citizens of the Niger just like the rest of the population, and that being internally displaced does not afford them a special status. The registration of displaced persons must therefore be guided by the fundamental principle of non-discrimination and must not be detrimental to their protection. In this regard, the Special Rapporteur encourages the relevant institutions to carry out prior risk analyses and evaluations during these exercises. In addition, registration should under no circumstances be a condition for receiving humanitarian assistance: this should be provided only on the basis of persons' needs and rights, and not on the basis of their status.

47. In May 2017, through the Working Group on Protection in Diffa, the Niger has sent the Joint Internally Displaced Person Profiling Service (JIPS) a request for support for a profiling exercise. The Special Rapporteur encourages JIPS and the Niger to continue discussions in order to clarify the scope of the planned exercise, the engagement of stakeholders and potential next steps for practical support.

C. Child protection and access to education

48. The crisis of displacement in Diffa has had a disproportionate impact on children. Forced and early marriage is one of the major problems brought to the Special Rapporteur's attention during her visit to Diffa. Three years after the displacement crisis started, children often represent an economic burden on families, and this seems to have provoked an increase in the number of cases of early marriage, a practice that was already followed in Diffa region. While, thanks to advocacy by protection activists, the average age of marriage has risen from 12 before the crisis to 14 or 16 in certain regions, early and forced marriage remains a recurring practice that puts children at greater risk of sexual abuse and early pregnancy. It has also been reported that girls who had allegedly been raped were often married to their rapists as second or third wives, in order to avoid stigmatization.

49. The Special Rapporteur was also informed of the recruitment of young people by Boko Haram, partly facilitated by the poverty, joblessness and lack of opportunities in Diffa region. There are no data on the number of children recruited by Boko Haram, given the sensitive nature of the problem. In response to a call by the former Governor of Diffa for the denunciation of individuals suspected of being members of Boko Haram, many false accusations have been lodged and this has led to arbitrary arrests and detentions, affecting children in particular. While a number of children have been released as a result of

advocacy by protection activists, others have been in detention since 2015. The Special Rapporteur welcomes the signing of a protocol between the Government of the Niger and the United Nations system regarding children in detention, which makes provision, with the assistance of the United Nations Children's Fund (UNICEF), for the transfer to the child protection services of children who have been captured, trafficked or injured in the operational area. She urges the Government to respect and implement this protocol, and to transfer the children who are still being held in detention to the identified transit and orientation centres.

50. The Special Rapporteur was also informed of the situation of children associated with Boko Haram, who gave themselves up to the authorities in early 2017, following the commitment of local authorities to provide community-based reintegration programmes. More than 200 persons are reported to have given themselves in, mostly children, and are allegedly still being held in a facility in Goudoumaria, almost 200 kilometres from Diffa. This situation raises important concerns, including about the status of such persons. The Special Rapporteur emphasizes that children should be treated as victims and immediately transferred to the transit and orientation centres in Niamey so that they can be reunited with their families in accordance with the principle of the best interests of the child, and the Niger's obligations under the Convention on the Rights of the Child and its optional protocol on the involvement of children in armed conflict, which the Niger has ratified. The Special Rapporteur was informed that the families of some of these children were identified as living in displacement sites, and that the Government was concerned that their return to these sites might expose them to reprisal attacks by members of Boko Haram.

51. In Diffa region, where access to quality education had always been very limited prior to the crisis, the situation had dramatically worsened. The Niger suffers from a lack of qualified teachers and, after an evaluation carried out by the Government in 2017, about 600 teachers in the region failed the tests and were dismissed. Although more children have been enrolled in schools since the onset of the crisis, a number of problems have prevented children from going to school. Recent threats against teachers have led to a shortage of teachers, who fear attacks. Three schools were attacked in 2017, their canteens looted and equipment destroyed. The lack of food and clothing also has an impact on school attendance. Displaced young people with whom the Special Rapporteur met reported that they had no access to secondary education, primarily because of the distance between their displacement sites and the schools. The ban on the growing of bell peppers and the running of motorcycle taxi services has also had a significant impact, as these are activities customarily carried out by young people, many of whom have now joined self-defence groups or militias instead. Priority attention should therefore be given to vocational training and alternative forms of education.

52. At Tillabéri, the Special Rapporteur was informed by the regional directorates of primary and secondary education that 40 per cent of the recently arrived displaced persons were children, only 10 per cent of whom were enrolled in local schools. In addition, many children at Ayorou are said to have been affected psychologically by the conflicts in which they have suffered or been witnesses and require psychological care. The system of school canteens in the region must be strengthened to meet the needs of these children, and this will also enable them to continue their schooling.

D. Sexual and gender-based violence

53. While there were cases of sexual and gender-based violence before the Diffa crisis, displacement has exposed women and girls to greater risks of such violence. According to an assessment of protection conducted by REACH, in partnership with the Working Group on Protection in Diffa,[8] a number of internally displaced women were victims of domestic violence, physical and sexual abuse and some were forced to resort to negative coping

[8] REACH and the Working Group on Protection, *Évaluation de la situation en termes de protection des personnes déplacées à Diffa* (Assessment of the situation in terms of the protection of displaced persons in Diffa), May 2017.

mechanisms such as sex for survival or prostitution, in particular widows and women heads of households. The assessment attributes these violations to the breakdown of social structures and changes in the traditional roles of men as providers of family support. The poor lighting in certain areas of the sites, including the latrines, combined with their remoteness, was also identified by women and girls as a factor exposing them to physical and sexual violence.

54. The Special Rapporteur was informed that fewer than 2 per cent of cases of gender-based violence were brought before the courts. Sexual violence is a hidden epidemic tainted with fear, the stigmatization of victims and the impunity of the perpetrators and exacerbated by the reluctance to report acts of abuse. Immediate and long-term support and reintegration in families and communities must be a priority. Protection workers in Diffa have also informed the Special Rapporteur that there is no legal assistance for cases of sexual and gender-based violence, and a lack of defenders in Diffa region. Communities lack confidence in the judicial system because of social pressures and the stigma associated with public hearings. Greater attention should also be paid to the needs of boys and men in the context of sexual and gender-based violence.

55. The issue of women's sexual and reproductive health was also raised as being of particular concern. In the region of Tillabéri, among the recently displaced persons, the situation of some 300 pregnant women needs urgent attention. The Special Rapporteur was informed that the lack of access to health centres had constrained some women to give birth in difficult conditions, including during their displacement. In addition, in Abala, there have been reports of cases of domestic violence and of early and forced marriage, and allegations of rape and sexual assault. Criticism is also voiced at the lack of training at the local health centre in Abala in the area of gender-based violence.

E. Intercommunity tensions

56. During her visit, the Special Rapporteur was informed by numerous stakeholders of the growing intercommunity tensions in Diffa region. While those tensions existed before the crisis, the current volatile security situation, population movements and limited access to services and resources have exacerbated these conflicts. As part of their protection monitoring activities, certain non-governmental organizations and UNHCR reported 58 incidents of intercommunity tension and conflicts between January and October 2017 in Diffa region.

57. The non-governmental organization Search for Common Ground recently conducted a study of four displacement sites:* Kablewa, Garin Wanzam, Nguigmi and Kindjandi. The study covered 140 persons: refugees, internally displaced persons, host communities, traditional leaders, government officials, security forces, community leaders and representatives of various groups. The interviews revealed that there are three types of recurrent conflict at the sites: resource-related conflicts, conflicts related to crime and banditry, and conflicts between herders and farmers. Only at the Kablewa site, where there is a very large number of internally displaced persons, was it thought that the conflicts between herders and farmers were worse than those related to crime and banditry. Findings showed that those tensions have led to extreme forms of violence, sometimes resulting in death. Gender-based violence is a recurring theme in the four sites, with women suffering more from conflicts than other groups. The Working Group on Protection in Diffa identified similar issues and devised a typology of the different categories of intercommunity conflicts. Where conflicts related to resources and humanitarian assistance are concerned, the working group identified the lack of water points in densely populated villages and other locations and the inadequacy of water infrastructure as causes of tension.

58. Conflicts between displaced populations, host communities and certain ethnic groups have also been identified. A study conducted by the Niger network for non-violent conflict management (GENEVICO) in Kindjandi and Kablewa notes that the Boudoumas

* Search for Common Ground, Working Group on Protection in Diffa and UNHCR, "Niger: conflict scan, 'Kallo Karaye' — On est ensemble, Diffa", October 2017.

and the Kanuri were being stigmatized by the Hausa and the Fulani (or Peul), who suspected them of being affiliated with Boko Haram and responsible for the current situation. The municipalities most affected by conflicts are Nguigmi, Gueskerou, Kablewa and Diffa, which are home to many internally displaced persons facing problems obtaining water and humanitarian assistance, such as the distribution of food and income-generating activities. Three years after the first waves of internal displacement in Diffa region, disputes related to housing, land and property have also been reported in some major sites (Nguigmi, Diffa), where internally displaced persons are occupying plots and areas of land belonging to individuals who are demanding their resettlement so that they can reoccupy or cultivate the land.

F. Housing, land and property

59. A preliminary assessment of the issue of housing, land and property in Diffa, carried out in August 2017 by UNHCR,[10] has made it possible to identify certain trends that should be closely monitored in the coming months. The situation in Diffa region, subdivided into zones with distinct land-tenure systems, is very complex. Almost three years after the initial movements of internally displaced persons, challenges related to housing, land and property are likely to be raised in the course of the discussions on the possible return of these persons. They will undoubtedly have great difficulty reclaiming their homes, land or abandoned property in their areas of origin depending on their situation prior to displacement.

60. In the course of this assessment, the internally displaced persons indicated that the lack of maintenance of their land and homes was a major obstacle to their return. The majority lived in houses made of mud brick, which had deteriorated significantly during their absence. Their land will have been invaded and will need to be cleared with the appropriate equipment. Approximately 50 per cent of the internally displaced persons interviewed indicated that they would prefer to receive assistance to rebuild their homes, while the other half would prefer to receive livelihood support and to deal with their home at a later stage.

61. Many internally displaced persons interviewed that had bought their land or houses held some form of property deed before they were displaced, usually in the form of an affidavit issued by the village chief. While most of them lost this document in the course of their displacement, they were confident that, in the event of complications, the issuance of another affidavit would facilitate their reoccupation of abandoned land.

62. The Special Rapporteur wishes to highlight the situation of particular risk in which women find themselves where housing, land and property are concerned. Although the statutory laws guarantee a woman's right to inherit land from her deceased husband, the displaced persons interviewed in the assessment conducted by UNHCR generally agreed that that was not always respected in practice, especially if the couple had no children. It is likely that the number of widows and single women has increased as a result of the crisis, and this issue should therefore be the subject of specific attention.

63. Lastly, the Special Rapporteur was able to meet with internally displaced persons in an urban setting, in Diffa, who told her that they relied on community support for access to land and that they were sometimes victims of eviction by private owners. These internally displaced persons are thus in an unstable and unpredictable situation, facing a constant threat of being forced out, despite having lived there for extensive periods. The Special Rapporteur encourages all stakeholders to consider the specific situation of these displaced persons attributable to conflicts related to housing, land and property.

[10] UNHCR, "Rapport d'évaluation : problèmes liés aux LTP dans un contexte de déplacement à Diffa" (Assessment report: housing, land and property-related problems in the context of displacement in Diffa), September 2017.

G. Humanitarian access and maintaining civic and humanitarian standards in displacement sites

64. Access to internally displaced persons, in particular in the region of Tillabéri, has also been raised as one of the main humanitarian concerns. Access is limited in particular because of security constraints, difficult road conditions and the presence of mines in some areas of Diffa region.[11] The rainy season could soon worsen road conditions, making it impossible to deliver emergency assistance. In the region of Tillabéri, some internally displaced persons indicated that they did not wish to receive humanitarian assistance in their displacement sites, fearing reprisals by non-State armed groups which might view them as being allied to the humanitarian workers.

65. With the intensification of military operations in the areas of Tillabéri and Diffa and the increasing number of forces present on the ground, including defence and security forces, Operation Barkhane, the Sahel G-5 forces in Tillabéri region and the redeployment of the Chadian contingent in Diffa region, the protection of civilians must be a central priority. The Special Rapporteur was informed that, by the time of her visit, Sahel G-5 had yet to establish a strategy for the protection of civilians. Despite the establishment of a civilian-military coordination mechanism in Diffa between humanitarian entities and the armed forces, stronger coordination must be established as a matter of urgency. Likewise, the first meeting of the civil-military cell for the regions of Tahoua and Tillabéri, held in Niamey on 21 March 2018, must be swiftly followed by the launching of subregional mechanisms. In addition, the principle of distinguishing civilians from combatants must be respected and the protection of civilians should be strengthened and integrated in the security strategy.

66. While recognizing the legitimate security concerns of the Government and its obligation to ensure the security of internally displaced persons in and around sites, the Special Rapporteur wishes to recall to the authorities of the Niger their obligations under international humanitarian and human rights law and the crucial importance of the protection of civilians, in particular, the need to preserve the civilian and humanitarian character of displacement sites and the reception areas. Identification measures should be in keeping with human rights standards, and civilians, including internally displaced persons, must not be subjected to undue restrictions on their freedom of movement, nor be victims of arrest or arbitrary detention.

V. Finding lasting solutions for internally displaced persons

67. In accordance with the framework on durable solutions for internally displaced persons of the Inter-Agency Standing Committee on Post-War and Disaster Reconstruction and Rehabilitation,[12] three durable solutions — namely, safe and dignified return, local integration or settlement elsewhere in the country — shall be offered to displaced persons. The Special Rapporteur reiterates that the participation of displaced persons in these processes and decisions is essential in order to ensure their relevance and sustainability and to enable them to choose the durable solution most appropriate to their situation. A durable solution is a long-term process of gradually diminishing displacement-specific needs, while ensuring that displaced persons enjoy their rights without discrimination related to their displacement. It is a complex process that involves multiple challenges, relating to human rights, humanitarian issues, or questions of development, reconstruction or peacebuilding.

68. An evaluation of November 2017 by REACH, in partnership with the Working Group on Protection in Diffa, shows that the internally displaced persons in 102 locations, of the 113 assessed, intend to remain in the site for three months from the date of

[11] A 2017 study in Diffa region by the National Commission for the Collection and Control of Illicit Weapons established that there were certain areas where mines had been laid.

[12] Inter-Agency Standing Committee and Brookings Institution-University of Bern Project on Internal Displacement, *IASC Framework on Durable Solutions for Internally Displaced Persons*, April 2010.

assessment.[13] This can be explained by the fact that their return is not yet possible, as conditions in many areas of return are precarious and are not conducive to the return of internally displaced persons in the light of the insecurity, the destruction of infrastructure and houses and the lack of basic services, which constitute serious humanitarian and protection risks. The Special Rapporteur stresses that, while it remains an option for the future of displaced persons, return must only take place voluntarily, in conditions of safety and dignity and with appropriate information and assurances of security and support.

69. In Diffa, three years after the first wave of internal displacement, keen interest was expressed by many stakeholders, including the Government and local authorities, in bringing together humanitarian and development approaches with a view to finding sustainable solutions for internally displaced persons. The Special Rapporteur encourages the Government to develop, in consultation with displaced persons themselves and the international community, a framework for durable solutions for internally displaced persons, which would help to clarify the roles and responsibilities of the various actors.

70. The Special Rapporteur notes that, although the situation in Diffa benefited from interventions more extensively supported by development entities, it is essential at the same time to maintain a response that is in keeping with the humanitarian and protection needs of internally displaced persons, given the volatile situation in the region. Any initiative aimed at shifting from assistance to development goals presupposes, and unconditionally requires, that investigations and rigorous evaluations be conducted, with the participation at all stages of displaced persons. Added to which, the integration of transitional phases in the displacement sites, such as the loosening of the current economic constraints associated with the state of emergency, would, among other things, allow internally displaced persons to resume their traditional livelihood activities, thereby alleviating the economic suffocation currently enveloping the region. All internally displaced persons whom the Special Rapporteur met expressed their need to be supported through the establishment of income-generating activities in order to give them access to sustainable activities that enable them to earn a living and make them less dependent on the assistance that they are being given.

71. The Special Rapporteur welcomes the fact that some of the projects under way are aimed at supporting the integration of displaced persons in their displacement areas. Thus, since 2015 the Government has been working with UNHCR on an urbanization project[14] aimed at the development of long-term responses relating to urban habitats, which would assist local communities and internally displaced persons to become self-reliant and self-sufficient. This project, which began in Diffa region, has made plots of land available to more than 2,500 households, including internally displaced persons, refugees and host communities. The second phase of this project in Diffa region, funded by a European Union trust fund, will be aimed at developing an additional 6,000 plots of land and constructing 4,000 sustainable houses over the next three years. The Special Rapporteur welcomes the fact that the World Bank has also provided funding to support the Government of the Niger in its efforts to address the consequences of forced displacement on the development front, and encourages other development entities to invest in the Niger. Finally, the Sustainable Development Goals cannot be achieved in the Niger if internally displaced persons are left behind and are unable to lead a dignified life and enjoy their rights on an equal footing with the rest of the population.

VI. Conclusions and recommendations

72. **The Niger is facing a growing internal displacement crisis in the vicinity of its borders with Mali and Nigeria. These two situations, although distinct, require constant and renewed attention. Despite a lack of resources and capacity, the Special Rapporteur would like to commend the efforts by the Government of the Niger to**

[13] REACH and the Working Group on Protection, *Évaluation finale de la situation en termes de protection des populations déplacées dans la région de Diffa* (Final assessment of the situation in terms of the protection of displaced populations in Diffa region), May 2017.

[14] See www.unhcr.org/niger-urbanization-project.html.

respond, to the extent possible, to this crisis. This reflects the Government's commitment to improving its response to ensure that internally displaced persons can find durable solutions. More concerted efforts are needed however, at both the institutional and the legislative levels. The Government of the Niger must learn lessons from the situation in Diffa and urgently develop a strategy for the comprehensive protection of and assistance to internally displaced persons.

73. **Informed by the Guiding Principles on Internal Displacement and the conceptual framework on durable solutions for internally displaced persons of the Inter-Agency Standing Committee, the Special Rapporteur puts forward the following recommendations.**

74. **The Special Rapporteur recommends that the Government of the Niger:**

(a) **Develop and adopt, as a matter of urgency, a comprehensive strategy for the protection of and assistance to internally displaced persons, including in the emerging situation in Tillabéri;**

(b) **Appoint a single focal point responsible for the issue of internal displacement, with responsibility for the overall coordination of response measures for internally displaced persons;**

(c) **Mobilize financial, human and material resources in order to provide a coherent, preventive and effective response to the immediate and structural causes of the prevailing security and humanitarian crisis;**

(d) **Provide the necessary resources to the steering committee for the drafting of a bill on internal displacement so that the bill may be submitted as soon as possible to the National Assembly for adoption;**

(e) **Strengthen the resources and capacities of the local authorities and the National Human Rights Commission so that they can work towards the attainment of their goals, including in remote areas;**

(f) **Strengthen access to justice in remote areas, including in Diffa, by introducing a legal aid system available to internally displaced persons who wish to take legal action;**

(g) **To initiate, ex officio and systematically, investigations and prosecutions of alleged perpetrators of serious violations of human rights or humanitarian law, including arbitrary arrests, disappearances, or cases of sexual and gender-based violence;**

(h) **Strengthen the capacity of members of the defence and security forces on standards relating to human rights and international humanitarian law, and protection standards, including through pre-deployment training;**

(i) **Work with the defence and security forces and humanitarian entities to strengthen civil-military coordination in order to protect civilians and to maintain the civilian and humanitarian character of sites for internally displaced persons and reception areas;**

(j) **Conduct a profiling exercise to generate a reliable estimate of the number of internally displaced persons in the Niger and carry out an intention survey among these persons to ensure the better targeting of responses to their needs, including durable solutions;**

(k) **Ensure that all internally displaced persons have access to civil status certificates through simplified procedures;**

(l) **Enable the empowerment of internally displaced persons, for example through temporary access to land in their displacement area and to income-generating activities;**

(m) **Develop, in consultation with internally displaced persons and the international community, a framework for durable solutions, which clarifies the roles and responsibilities of different stakeholders;**

(n) Ease the measures imposed under the state of emergency in Diffa, which are unduly impeding the freedom of movement of internally displaced persons and encroaching on their economic and social rights.

75. **The Special Rapporteur recommends that the international community, donors, United Nations agencies and other humanitarian and development entities:**

(a) Pay greater attention to the complex situation in the Niger and ensure that the situation of internal displacement in the Niger remains at the forefront of the international agenda;

(b) Establish a multidisciplinary and multi-organizational team to support the Government and provide technical assistance with a view to ensuring an appropriate response to the current displacement situation in Tillabéri;

(c) Mobilize and fund in its entirety the 2018 humanitarian response plan for all clusters, including the Working Group on Protection;

(d) Ensure the inclusion of host communities, which have paid a heavy economic price in the displacement situation, in any humanitarian assistance project or any development initiative;

(e) Promote the engagement of development entities and assist the Government in the implementation of durable solutions, including through cash-based initiatives, access to microcredit, vocational training and income-generating activities, and their inclusion in the national development plan.

76. **The Special Rapporteur recommends that:**

(a) The United Nations country team for humanitarian action give priority to the development of a protection strategy;

(b) States involved in the Sahel G-5 force urgently develop a strategy for the protection of civilians, respect the principles of international humanitarian law and human rights, and encourage their application in practice through training for military personnel.